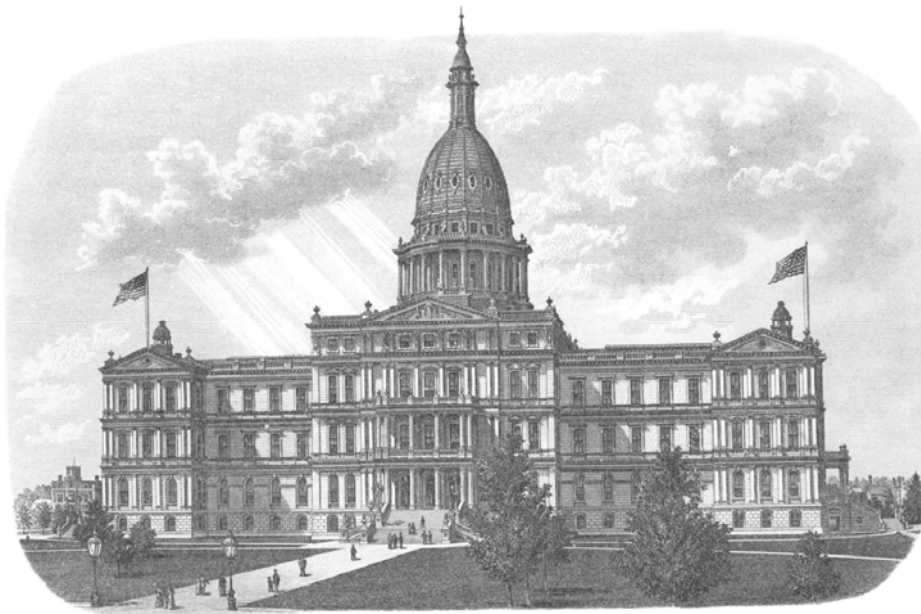


Michigan Register

Issue No. 3 – 2013 (Published March 1, 2013)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws



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(This issue, published March 1, 2013, contains
documents filed from February 1, 2013 to February 15, 2013)

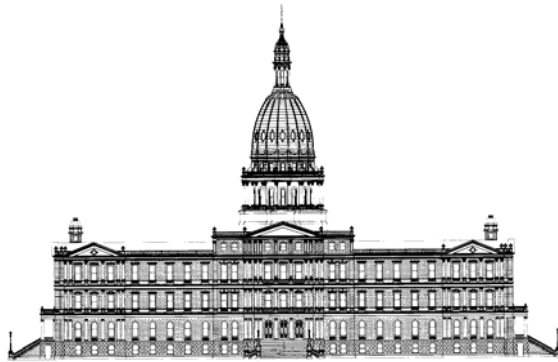
Compiled and Published by the
Office of Regulatory Reinvention

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Steve Arwood, Director, Office of Regulatory Reinvention; **Deidre O’Berry**, Administrative Rules Specialist for Operations and Publications.

Rick Snyder, Governor



Brian Calley, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Office of Regulatory Reinvention for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reinvention is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reinvention, Romney Building – Fourth Floor, 111 S. Capitol Avenue, Lansing, MI 48933

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: Office of Regulatory Reinvention, Romney Building – Fourth Floor, 111 S. Capitol Avenue, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reinvention (517) 335-8658.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reinvention: www.michigan.gov/orr.

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reinvention Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Steve Arwood, Director
Office of Regulatory Reinvention

2013 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2013	February 1, 2013
2	February 1, 2013	February 15, 2013
3	February 15, 2013	March 1, 2013
4	March 1, 2013	March 15, 2013
5	March 15, 2013	April 1, 2013
6	April 1, 2013	April 15, 2013
7	April 15, 2013	May 1, 2013
8	May 1, 2013	May 15, 2013
9	May 15, 2013	June 1, 2013
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19	October 15, 2013	November 1, 2013
20	November 1, 2013	November 15, 2013
21	November 15, 2013	December 1, 2013
22	December 1, 2013	December 15, 2013
23	December 15, 2013	January 1, 2014
24	January 1, 2014	January 15, 2014

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**PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS**

MCL 24.242(3) states in part:

“... the agency shall submit a copy of the notice of public hearing to the Office of Regulatory Reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the Office of Regulatory Reform.”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.”

PROPOSED ADMINISTRATIVE RULES

MICHIGAN DEPARTMENT OF CIVIL RIGHTS
DIVISION ON DEAF AND HARD OF HEARING
QUALIFIED INTERPRETER – GENERAL RULES

Proposed Draft February 15, 2013

Filed with the Secretary of State

These rules become effective 30 days after filing.

(By authority conferred on the division on deaf and hard of hearing by section 8a of the Deaf Persons' Interpreters Act, 1982 PA 204, MCL 393.508a, section 9 of the Division on Deafness Act, 1937 PA 72, MCL 408.209, and ERO 1996-2, MCL 445.2001, ERO 2003-1, MCL 445.2011, and ERO 2008-4, MCL 445.2025.)

R 393.5001, R 393.5003, R 393.5004, R 393.5005, R 393.5021, R 393.5022, R 393.5023, R 393.5024, R 393.5025, R 393.5026, R 393.5027, R 393.5028, R 393.5031, R 393.5032, R 393.5033, R 393.5041, R 393.5042, R393.5045, R 393.5051, R 393.5052, R 393.5053, R 393.5054, R 393.5055, R 393.5056, R 393.5058, R 393.5061, R 393.5062, R 393.5063, R 393.5064, R 393.5070, R 393.5072, R 393.5073, R 393.5074, R 393.5075, R 393.5076, R 393.5077, R 393.5081, R 393.5082, R 393.5083, R 393.5084, R 393.5085, R 393.5086, R 393.5091, R 393.5092, R 393.5093, R 393.5094, and R 393.5095 are added to the Michigan Administrative Code as follows:

PART 1. GENERAL PROVISIONS

R 393.5001 Scope.

Rule 1. These rules apply to any individual who is hired to interpret for a proceeding for a deaf, deaf-blind, or hard of hearing person within this state.

R 393.5003 Definitions.

Rule 2. Terms used in these rules are defined as follows:

“Act” means the deaf persons’ interpreter act, 1982 PA 204, MCL 393.501 to 393.509.

“CEU cycle” means a 4-year period of time in which continuing education units are earned.

“CEU” means a continuing education unit.

“Complainant” means a person or entity who has filed a grievance with the division alleging that a person has violated the act or a rule promulgated under the act.

“Council” means the advisory council on deaf and hard of hearing established under MCL 408.205.

“Credential card” means an interpreter card, carrying the Great Seal of Michigan, issued by the division to certify that an interpreter is qualified and registered to interpret within the state of Michigan.

“D/DB/HH person” means a deaf, deaf-blind, or hard of hearing person.

“Deaf Interpreter” or “DI” means a deaf or hard of hearing individual who holds a division recognized certification and interpreter training and/or experience in the use of gestures, mime, props, drawings, and other tools to enhance communication, as well as knowledge and understanding of deafness, the deaf community, and the deaf culture. The DI possesses native or near-native fluency in American sign language.

“Director” means the director of the division on deaf and hard of hearing or his or her designee.

“Division” means the division on deaf and hard of hearing in the Michigan Department of Civil Rights.

“Division recognized certification” means a certificate that the division will accept that indicates the individual has passed an evaluation of his or her interpreting skills.

“Effective communication” means that all involved parties understand each other for the exchange of visual and audio information about ideas, attitudes, emotions, or behavior that occurs between 2 or more individuals, through a common system of language that is equally and fully understood by a deaf, deaf-blind, or hard of hearing person (D/DB/HH) and hearing individuals. The interpreter must possess sign language to English – English to sign language skills and necessary vocabulary for the situation so that all parties have access to the same information.

“EIPA” or “educational interpreter performance assessment” means a credential granted under the EIPA interpreter testing system that assesses the proficiency of interpreters in elementary and secondary educational environments.

“Formal complaint” means a document that states the charges of each alleged violation and is prepared by the division after a complaint has been received.

“Interpreter” means a person who engages in the practice of interpreting and meets criteria of MCL 393.502(h).

“Interpreting” means the process of listening, watching, understanding, and analyzing signed, spoken, written word, facial expressions, and lip movements from a source language and re-expressing that message faithfully, accurately, and objectively in a target language, taking the social and cultural context into account.

“Listed” or “Listing” means full name, address, type of certification, expiration, and disciplinary actions appearing in the division interpreter database.

“MI-BEI certification” means an interpreter certificate granted under the MI-BEI interpreter testing system.

“Michigan BEI” or “MI-BEI” means the Michigan board for evaluation of interpreters test which this state leases from the state of Texas to evaluate interpreters in this state.

“NAD” means national association of the deaf.

“National certification” means a certification process recognized by the national registry of interpreters for the deaf (RID) that assesses interpreter skills.

“Proceeding” means any meeting that a deaf person participates in that requires a qualified interpreter.

“Proceedings interpreter” means an individual that interprets in a court room, all of the proceedings of the court including all witness testimony.

“Quality assurance certification” or “QA” means an interpreter certificate granted under the division’s quality assurance certification interpreter testing system, which will phase out.

“Qualified interpreter” means a person who is certified through the national registry of interpreters for the deaf or certified through the state by the division and listed on the Michigan online interpreter system. <http://www6.dleg.state.mi.us/interpreter/>

“Readily communicate” means that effective communication is achieved.

“Reasonable notice” means the minimum advanced notice required under the circumstances for the appointing authority to secure an interpreter.

“Respondent” means a person against whom a grievance has been filed alleging that the person has violated the act or a rule promulgated under the act.

“RID” means the national registry of interpreters for the deaf.

“RID NIC,” means national interpreter certification recognized by the RID certification system.

“SCAO” means state court administrative office.

“Sign language” means a language in which the hands, arms, head, facial expression, and body language are used to speak without sound. Sign language grammar and syntax are distinct from any oral language, including English.

“Student intern” means a person who is formally enrolled in a course of study at a college, university, or trade school leading to a degree or certificate from an accredited institution in the field of interpreting.

“Table interpreter” means an interpreter that sits at counsel’s table as a member of the litigation team, interpret privileged communications between counsel and client and monitor the proceedings interpreters for accuracy.

“Team interpreting” means the utilization of 2 or more interpreters who rotate to provide simultaneous or consecutive interpretation. Team interpreters alternate interpreting duties to reduce mental and physical fatigue, reduce the potential for errors in the interpretation by monitoring and making adjustments as necessary to ensure accuracy, and assist with note-taking and monitoring the environmental logistics of the interpreted setting.

“Testing cycle” means the period of time between the time a certification is earned and retesting is required.

(kk) “Video relay service” or “VRS” means a form of telecommunications relay service (TRS) that enables persons with hearing or speech disabilities who use American sign language (ASL) to communicate with voice telephone users through video equipment. The video equipment links the VRS user with a qualified interpreter so that the VRS user and qualified interpreter can see and communicate with each other in sign language while the qualified interpreter relays the conversation back and forth with a voice caller.

“Video remote interpreting” or “VRI” means the use of video conference technology to deliver the services of a qualified interpreter between 2 or more people at the same location. VRI generally consists of video cameras and monitors, microphones and speakers, or a high speed Internet or other connection.

”Waiver” means to give up the right to have a qualified interpreter.

R 393.5004 Reasonable notice.

Rule 4. For the purpose of securing an interpreter, reasonable notice must be provided to an appointing authority. The following time frames constitute reasonable notice:

- (a) In emergency situations, as soon as the need is identified.
- (b) At least 3 days prior to a scheduled event.

R 393.5005 Verification of interpreter qualifications.

Rule 5. The division shall assist an appointing authority or a member of the public to ensure that an interpreter is properly qualified by 1 or more of the following methods:

- (a) Verifying through oral or written request that a credential provided by the division is current and valid.
- (b) Accepting and referring requests for qualified interpreters channeled through the division under MCL 393.508 (1).

(c) Verifying the credential of qualified interpreters through an online listing provided by the division under MCL 393.508 (2).

(d) Providing consultation on required certification and standard levels.

PART 2. MINIMUM CREDENTIAL REQUIREMENTS AND LEVELS

R 393.5021 Acceptable certifications.

Rule 21. The following certifications are recognized in this state:

(a) The following certification evaluated by this state:

(i) Michigan Quality Assurance (QA) I, II, III, until phase out date 90 days following promulgation.

(ii) Michigan BEI 1.

(iii) Michigan BEI 2.

(iv) Michigan BEI 3.

(v) Deaf Interpreter (DI).

(vi) EIPA as described in R 393.5026.

(b) A certification from another state which has a reciprocal agreement with this state.

(c) National certifications recognized by the RID.

(d) Equivalent certification recognized by the RID or the division.

(2) An EIPA shall only be accepted for use in elementary and secondary educational settings and shall not be recognized as acceptable certification outside of the stated school settings.

R 393.5022 Minimum standard levels.

Rule 22. (1) Standard levels shall include level 1, level 2, level 3, and an educational level.

Standard levels are based upon the sign language interpreter's credentials, and are intended to illustrate a given level of expected proficiency. Each level is the minimum level established to protect the health, welfare, and safety of the D/DB/HH person and interpreters engaged in the specific environments identified under each standard level. Interpreters shall accept, refuse, or withdraw from proceedings, based upon their standard level, RID professional code of conduct tenets, experience, ability to readily communicate, mandated standards, and credentials.

(2) An individual with a designated oral transliteration certificate may provide oral transliterating only. Sign language interpreter certification is required for an individual to perform sign language interpreting. If oral transliterating is done under standard levels 2 and 3, then the interpreter shall also obtain medical and legal endorsements.

(3) The following certifications are not recognized by the division for the circumstances described:

(a) Ninety days from the effective date of these rules, QA I shall not provide medical, legal, or mental health interpreting services. QA II shall not provide legal interpreting services.

(b) Upon the effective date of these rules, an individual holding a QA I certification may complete the current school year, but shall not work in an educational environment the following school year and beyond June 30, 2013.

(c) Endorsements are required to interpret for a proceeding involving a deaf-blind person, medical, and legal situations. Endorsement requirements shall be required 2 years from the effective date of these rules.

R 393.5023 Standard Level 1; non-complex, low risk environments.

Rule 23. (1) Interpreters at standard level 1 shall hold 1 of the following credentials:

(a) MI-BEI 1.

- (b) Michigan QA 1, until phased out.
- (c) NAD 3.
- (d) RID IC (interpretation certificate).
- (e) RID TC (transliteration certificate).

(2) Interpreters assigned to standard level 1 may work in the following environments if effective communication is achieved:

- (a) Workshops, meetings and training or general presentations, except for topics related to health, mental health, law, employment, finance, and government.
- (b) VRS.
- (c) Post-secondary education, GED training.
- (d) Vocational training post-high school and assessments.

R 393.5024 Standard level 2; moderately complex environments; medium to high risk environments; health care; government; employment; finance.

Rule 24. (1) Interpreters at standard level 2 may work in moderately complex environments and hold 1 of the following credentials.

- (a) Michigan QA II, until phased out.
- (b) Michigan QA III, until phased out.
- (c) BEI 2.
- (d) RID CI (certificate of interpretation).
- (e) RID CT (certificate of transliteration).
- (f) NAD 4.
- (g) RID NIC.
- (h) RID NIC advanced.
- (i) RID NIC master.
- (j) RID OTC.

(2) Interpreters assigned to standard level 2 may interpret for a proceeding, if effective communication is achieved in health care, government, employment, finance, including but not limited to, the following situations:

(a) IEP (individualized education plan) meeting involving D/DB/HH parent, staff member, or D/DB/HH professional.

(b) Meetings with speakers, training, or workshops for post-secondary education topics, employment, finance, government.

(c) Interviews for jobs or job readiness and on-the-job training.

(d) Employment grievances or disciplinary actions.

(e) Employer or employee and staff meetings, and sheltered employment.

(f) Political events.

(g) Financial, banking, and personal transactions.

(h) Government meetings.

(i) Presentations by dignitaries and public personalities.

(j) Plays, concerts, and TV news.

(k) Tax assessment meetings and appeals.

(l) Applications for state or federal services.

(m) VRI services for all situations at this level.

(n) Addiction treatment.

(3) An interpreter shall hold a medical endorsement to interpret in a medical setting as prescribed in R 393.5028. Interpreters assigned to standard level 2 with a medical endorsement

may interpret for a proceeding in the following environments if effective communication is achieved:

- (a) All health care situations beyond basic first aid involving a health care practitioner, doctor, rehabilitation specialist, therapist, psychologist, or psychiatrist.
- (b) All health care administered in an emergency room, trauma center, urgent care facility, hospital, nursing home, triage, hospice, rehabilitation center, dialysis center, inpatient facility, outpatient facility, and mental health facility.
- (c) Health-related and mental health-related presentations by speakers, training, and workshops.
- (d) Counseling and psychiatric evaluations.
- (4) Standard level 2 interpreters may interpret for a proceeding for standard level 1 environments, if effective communication is achieved.
- (5) While around the clock presence of a qualified interpreter in a medical setting is highly desirable, and in some cases necessary, it is not required in every case, especially when an alternative accommodation which is reasonable and effective, is available. A qualified interpreter shall not remain at a proceeding beyond the time that communication is expected to be conducted, especially during the time the D/DB/HH person is sleeping, unless the physician, after an opportunity to consult with the D/DB/HH person through an interpreter, makes an assessment based on the health, medical condition of the individual, complexity of communication, and D/DB/HH person's language level determines a qualified interpreter is necessary. Preference shall be given to the communication needs of the D/DB/HH person when determining whether an interpreter is required.

R 393.5025 Standard level 3; high risk, legal environments.

Rule 25. (1) Interpreters assigned to standard level 3 may work in high risk environments and shall hold 1 of the following credentials and legal endorsement as prescribed in R 393.5028:

- (a) Michigan BEI 3.
- (b) Michigan DI.
- (c) RID CSC.
- (d) RID MCSC.
- (e) RID reverse skills certificate.
- (f) RID SC: L.
- (g) RID CDI.
- (h) NAD 5.
- (i) RID CI and CT.
- (j) RID OTC.
- (k) RID NIC, plus 4 years post-certification experience.
- (l) RID NIC advanced, plus 4 years post-certification experience.
- (m) RID NIC master, plus 4 years post-certification experience.
- (2) Interpreters assigned to standard level 3 with endorsements may interpret for a proceeding in the following environments if effective communication is achieved:
 - (a) Forensic psychiatric evaluations or evaluations of a legal nature.
 - (b) Emergency broadcasts.
 - (c) Legal workshops or legal training.
 - (d) VRI legal subject matters.
 - (e) Any activities involving the police, prison, or prisoners.
 - (f) Any activities involving an attorney or the courts.
 - (g) Any activities involving children's protective services.
 - (h) Any activities involving probation or parole.

(3) Interpreters assigned to standard level 3 may interpret for a proceeding in standard level 1 and 2 environments, if effective communication is achieved and appropriate endorsements are obtained.

R 393.5026 Educational interpreter qualifications.

Rule 26. (1) The minimum standard for educational interpreters shall be any of the following:

(a) An EIPA performance score of 4.0, elementary endorsement, and passage of a written assessment.

(b) An EIPA performance score of 4.0, secondary endorsement, and passage of a written assessment.

(c) Possession of a division recognized certification which requires an equivalent child-based model testing instrument approved and certified by the division.

(d) Possession of a certified deaf interpreter credential and certification by the division.

(2) Interpreters working in an elementary school environment (pre-kindergarten to 6th grade) shall be required to meet certification in subrule (1)(a) or (1)(c) of this rule, except as provided in subrules (9) and (10) of this rule, as appropriate.

(3) Interpreters meeting the certification requirements of subrule (1) of this rule may interpret for a proceeding for children and youth only in the following settings, if effective communication is achieved:

(a) Elementary or secondary classroom or secondary vocational training.

(b) Any 504 plan including transition services.

(c) School-related disciplinary situations including manifestation determinations that do not involve police.

(d) Before- and after-school activities.

(e) Class trips.

(f) During an IEP (individualized education plan) for student programs or programs and services listed in the IEP.

(g) High school vocational training.

(h) Educational transition services.

(i) For a D/DB/HH student with an IEP.

(j) Any other school-related activity.

(4) A substitute interpreter in an elementary environment shall possess an EIPA certification or equivalent as described in subrule (1), (9), or (10) of this rule, as appropriate, if the proceeding lasts beyond 1 semester. A substitute interpreter for less than 1 semester shall possess a Michigan BEI 1 or minimum standard level 2 or 3 in an elementary setting.

(5) Interpreters working in a secondary school environment (grades 7 to age 26 with a special educational plan) shall be required to possess an EIPA, Michigan BEI 1, or minimum standard level 2 or 3.

(6) At the conclusion of the school semester following the adoption of these rules, interpreters with the following certifications shall not interpret for a proceeding in an elementary or secondary setting:

(a) QA I.

(b) NAD 3.

(c) IC (Interpretation certificate).

(d) TC (transliteration certificate).

(7) Compliance with subrules (1) to (5) of this rule shall be accomplished 3 years following promulgation of these rules.

(8) Michigan may recognize an EIPA performance score of not less than 3.5 until 3 years from the date of promulgation of these rules.

(9) At the time of promulgation of these rules, a qualified interpreter holding a Michigan-recognized EIPA certification with a minimum performance score of 3.5 or higher shall be grandfathered in and shall not be required to retest, nor shall he or she be required to take the written examination unless the certification is expired or lapsed 45 days or more beyond the expiration date of the credential, as required under R 393.5092.

(10) After the date of promulgation of these rules, standard level 2 and 3, Michigan BEI 1, are accepted in both elementary and secondary settings for 3 years.

R 393.5027 Exceptions; standard level designations.

Rule 27. (1) A troupe member of a theater company, performing artist, dignitary, or speaker that utilizes sign language as part of his or her repertoire is not required to be a qualified interpreter, as the person signing is there for artistic purposes and is not there upon the request of a D/DB/HH person for reasonable accommodation.

(2) An appointing authority may use a qualified interpreter who does not meet the level requirements of these rules for interpreting in an emergency situation if in the best medical or legal judgment of the appointing authority, and all of the following conditions are met:

(a) A life threatening emergency situation exists.

(b) All reasonable efforts have been exhausted by the appointing authority to locate an appropriately qualified interpreter from within a 60-mile radius, and documentation to that effect is available to the division upon request.

(3) During a state or national emergency, an individual facilitating communication between a D/DB/HH person and first responders shall be exempt until a qualified interpreter may be found.

R 393.5028 Special endorsements; deaf-blind; medical and mental health; legal.

Rule 28. (1) An endorsement shall be required to interpret for a proceeding in any of the following environments beginning 2 years following the promulgation of these rules:

(a) Deaf-blind.

(b) Medical or mental health.

(c) Legal.

(2) Qualified interpreters at any level shall complete not less than .8 CEUs per 4-year cycle in the subject area of deaf-blindness, deaf persons with low vision, and interpreting as it relates to the needs of this population for endorsement involving a deaf-blind or deaf low-vision individuals.

(3) Qualified interpreters shall meet all of the following requirements for endorsement to interpret for a proceeding in medical or mental health settings:

(a) Pass an English competency test or possess a minimum of bachelor's degree in any field from an accredited institution.

(b) Qualify to interpret for a proceeding at standard level 2 or 3.

(c) Complete not less than 2.0 medical or mental health CEUs per 4-year cycle.

(4) Qualified interpreters shall meet all the following requirements for endorsement to interpret for a proceeding in legal settings:

(a) Pass an English competency test or possess a minimum of a bachelor's degree in any field from an accredited institution.

(b) Successfully complete either of the following:

(i) Pass the written Michigan state court legal interpreting test and complete court orientation training offered by the state court administrator's office in cooperation with the division.

- (ii) Possess an SC: L.
- (c) Obtain certification under level 3 standards.
- (d) Complete not less than 2.0 legal CEUs per 4-year cycle.
- (e) Meet 1 of the following educational and mentoring selections:
 - (i) A bachelor's degree from an accredited institution in any field, or an associate's degree in interpreting from an accredited institution, and the following additional education and experience:
 - (a) Documentation of not less than 50 hours of legal interpreting or mentoring experience.
 - (b) Documentation of not less than 30 hours of formal legal interpreter training.
 - (c) Documentation of not less than 4 years of post-certification interpreting experience.
 - (ii) An associate's degree in any field from an accredited institution and the following additional education and experience:
 - (a) Documentation of not less than 75 hours of legal interpreting or mentoring experience.
 - (b) Documentation of not less than 50 hours of formal legal interpreter training.
 - (c) Documentation of not less than 4 years of general post-certification interpreting experience.
 - (iii) High School diploma and all of the following additional education and experience:
 - Documentation of not less than 100 hours of legal interpreting or mentoring experience.
 - Documentation of not less than 70 hours of formal legal interpreter training.
 - Documentation of not less than 4 years of general post-certification interpreting experience.

PART 3. PROCEDURES FOR APPLICATION, CERTIFICATION, AND LISTING

R 393.5031 Application for certification by division.

Rule 31. (1) The division shall certify and list an in-state or out-of-state applicant who submits 1 of the following to the division, as applicable:

- (a) An application for recognition as a state-certified interpreter and all of the following:
 - (i) Acceptable passing scores on the state administered interpreter test or any other test accepted by this state or any other state which has a reciprocal agreement with the division for an appropriate level test.
 - (ii) Payment of the fee prescribed in MCL 393.508e.
 - (iii) Four years after the effective date of these rules, possession of an associate's or higher degree from an accredited institution.
 - (b) An application for recognition as a nationally certified interpreter and both of the following:
 - (i) A copy of the interpreter's RID membership card which shows the type of certification and a current expiration date.
 - (ii) Payment of the fee prescribed in MCL 393.508e.
 - (c) For holders of a current QA I, QA II, and QA III, an application, a copy of the interpreter's currently held professional credential, and payment of the fee prescribed in MCL 393.508e may be submitted for renewal until phased out.
 - (d) An application for state recognized EIPA certification and all of the following:
 - (i) Acceptable passing scores on the EIPA examination.
 - (ii) Modality utilized while taking the test.
 - (iii) Verification that the interpreter is certified at the elementary or secondary level.
 - (iv) Payment of the fee prescribed in MCL 393.508e.
- (2) Interpreters possessing state or national certification before the effective date of these rules shall be exempt from degree requirements of subrule (1)(a)(iii) of this rule unless the certification has lapsed for more than 30 calendar days.

(3) Applications shall be submitted on original forms provided by the division, completed and signed by the applicant, and shall include all of the following:

- (a) A copy of a valid state photo-identification.
 - (b) Evidence of attainment of 18 years of age at time of application.
 - (c) A statement signed by the applicant agreeing to comply with rules and regulations for state certification as an interpreter.
 - (d) A statement signed by the applicant verifying the truthfulness of information provided, affirming that the applicant will comply with the NAD-RID code of professional conduct as adopted in R 393.5052, and conduct required under these rules.
 - (e) The application fee required under MCL 393.508e.
 - (f) Contact information for the applicant.
- (4) When the accuracy or authenticity of any submitted documentation or experience is questioned by the division because of discrepancies or conflicting information, or need for clarification, the applicant seeking certification shall provide additional documentation.

R 393.5032 Reciprocity.

Rule 32. An applicant for certification by reciprocity shall do all of the following:

- (a) Supply all documentation as applicable and required under R 393.5031.
- (b) Pay all associated fees.
- (c) Hold a current, valid license or certificate in good standing to practice interpreting in a state with which this state has a reciprocal agreement.
- (d) Have no report of disciplinary action pending in another state, nor a certificate, registration, or license currently under disciplinary action.
- (e) Agree to comply with all rules under the act.

R 393.5033 Good moral character.

Rule 33. (1) The division shall not issue certification, renew certification, nor test for certification, an applicant, if the applicant lacks good moral character.

(2) A conviction of a felony by an applicant in a court of competent jurisdiction in any state, including but not limited to the following, shall evidence a lack of good moral character:

- (a) Homicide.
 - (b) Murder.
 - (c) Manslaughter.
 - (d) Criminal sexual conduct in any degree.
 - (e) Felonious assault or battery.
 - (f) Armed robbery.
 - (g) Extortion.
 - (h) Larceny.
 - (i) Embezzlement.
 - (j) Elder exploitation.
- (3) An applicant with an expunged record shall not be subjected to this rule.
- (4) The division shall provide the applicant with written notice regarding the findings as identified in subrule (1) of this rule as evidencing a lack of good moral character.
- (5) Denial of application based on offenses evidencing lack of good moral character is not subject to appeal.

PART 4. PROCEDURES FOR TESTING

R 393.5041 Testing; division issued certificate.

Rule 41. (1) The division shall schedule an applicant for testing who submits all the following:

(a) A fully completed application on forms provided by the division to take an appropriate level test.

(b) Evidence of graduation from high school or a GED.

(c) Four years after the effective date of these rules, a copy of an associate's of arts or higher degree from an accredited institution, or proof of having maintained current state or national certification before the effective date of these rules.

(d) Valid state photo identification.

(e) Verification of attainment of 18 years of age at the time of the application for testing.

(f) Fees required for examination as required under MCL 393.508e.

(2) Upon achievement of acceptable passing scores on an interpreter test administered by this state or another state with which the division has a reciprocal agreement, the applicant may submit an application to the division for credentialing and listing as a qualified interpreter with an application as required in R 393.5031.

R 393.5042 Retesting; recertification; other tests required.

Rule 42. (1) An individual tested under the state testing system for certification shall be required to participate in a 4-year testing cycle and retest at the next higher level of certification until passing the MI BEI 2 or its equivalent. From that point forward, the individual shall no longer be required to retest every 4 years as long as the certification does not lapse.

(2) An individual who is required to retest shall not lose his or her current level of certification.

(3) An individual holding current national certification or the state-recognized EIPA certification shall not be required to retest to renew his or her certification.

R 393.5045 Accommodation; alternative pathway deaf interpreter certification.

Rule 45. The division shall create as a reasonable accommodation in the absence of a standardized testing tool an alternative pathway toward state certification for deaf and hard of hearing individuals to become qualified. The alternative pathway shall be structured to give weight to a person's experience, training, non-institutional training, and innate skills and shall be flexible so as to enable the deaf or hard of hearing person to demonstrate requisite knowledge and skills.

PART 5. MINIMUM STANDARDS OF PRACTICE

R 393.5051 Practice within standard level.

Rule 51. (1) Each qualified interpreter shall interpret for a proceeding within his or her standard level, unless otherwise provided in these rules and the act.

(2) Before starting a proceeding, an interpreter shall show his or her current Michigan credential as a qualified interpreter and valid proof of identification to the appointing authority and D/DB/HH person.

(3) If there is a conflict between these rules and a local, state, or federal law, the interpreter shall comply with the law.

(4) A qualified interpreter may interpret for a proceeding for a co-worker or peer during organizational meetings, workshops, seminars, union discussions, when not a participant in the meeting, but shall not be compelled to interpret for a co-worker or peer during a disciplinary meeting, conflict resolution, or employment dispute. A neutral qualified interpreter shall be used at the discretion of the D/DB/HH person.

(5) A qualified interpreter shall not interpret for both opposing counsel tables in a legal proceeding. At a minimum, a proceedings interpreter and a table interpreter shall be acquired. The roles of the interpreter at the table and the proceedings interpreters are not adversarial. The interpreter at the table is a member of the council team and an agent of the attorney. The proceedings interpreter is an officer of the court.

(a) The proceedings interpreter shall interpret the courtroom proceedings.

(b) The table interpreter shall interpret privileged and other communications between a D/DB/HH person and their lawyer while monitoring the accuracy and effectiveness of the proceedings interpreter's interpretations.

(6) Qualified interpreters shall not accept assignments requiring them to be the sole interpreter in situations that require a team. This rule shall apply to legal environments, but is not limited to them. A team shall be required if any of the following factors exist:

(a) Complex environments, especially legal.

(b) Multiple D/DB/HH participants and/or multiple non-D/DB/HH participants.

(c) Participants with limited language proficiency.

(d) A lengthy duration that exceeds 2 hours.

(e) A pace of communication that cannot be easily modified.

(f) Involvement of opposing counsel.

(7) An educational interpreter shall team with a standard level 2 or standard level 3 interpreter for medical or legal events occurring in school or shall hold the proper certification with a medical or legal endorsement to interpret alone for these proceedings.

(8) Interpreters at a lower standard level may interpret in a higher standard level setting if they are in a supervised division approved mentoring experience with a higher standard level interpreter.

(9) Any contract or regular employee, regardless of job title, who interprets or is called upon to facilitate communication between a D/DB/HH person and a non-signing person through sign language or oral transliteration, shall be a qualified interpreter as prescribed in the act.

R 393.5052 Adoption by reference; code of professional conduct.

Rule 52. (1) NAD-RID "Code of Professional Conduct," effective July 1, 2005 is adopted by reference. Copies may be obtained at no charge from National RID, 333 Commerce Street, Alexandria, VA 22314, 703/838-0030 (V), 703/838-0459 (TTY), or 703/838-0454 (Fax). Copies are also available for review and distribution from the Division on Deaf and Hard of Hearing, 201 N. Washington SQ, STE. 150, Lansing, MI 48913 or dodhh@michigan.gov.

R 393.5053 Educational standards.

Rule 53. An interpreter possessing an EIPA certification shall not interpret for a proceeding for an adult D/DB/HH person or an adult working within an educational setting for a disciplinary meeting, union activity, training, or other type of activity that occurs outside of an educational situation described in R 393.5026.

R 393.5054 Supervision of student interpreter practicum experience.

Rule 54. (1) A qualified interpreter may supervise student interns in an interpreter education curriculum that is under the jurisdiction of a college or training program recognized by the U.S. Secretary of Education as being regionally or nationally accredited.

(2) A qualified interpreter shall at all times accompany and supervise student interns who are interpreting in a practical setting to gain experience and skills related to interpreting.

(3) A qualified interpreter shall obtain the consent of the D/DB/HH person and appointing authority before allowing the student to participate and before introducing the student to the D/DB/HH person.

(4) A qualified interpreter supervising a student intern shall clearly identify the student as being an intern.

(5) A supervising qualified interpreter shall not at any time allow a student intern to be used as a substitute for a required qualified team interpreter or to work alone.

(6) Only qualified interpreters, as set forth in the act, with EIPA certification, national certification, or standards level 2 or above, may supervise student interns, and only for the proceedings for which the supervising interpreter is qualified.

(7) Qualified interpreters under disciplinary review or action shall not supervise student interpreters.

(8) Qualified interpreters shall not supervise any student accepting compensation for interpreting; however, a student stipend or formalized student apprenticeship is acceptable.

R 393.5055 VRI standards.

Rule 55. (1) An individual providing sign language interpreting services or translation services to D/DB/HH person(s) through video remote interpreting for a proceeding in this state shall be a qualified interpreter.

(2) A D/DB/HH person shall not be compelled to utilize VRI in place of an on-site interpreter.

(3) Interpreters in educational settings using VRI shall comply with all educational interpreter standards and with all of the following:

(a) A qualified interpreter shall not interpret for a proceeding using VRI for any D/DB/HH child in an elementary setting.

(b) A qualified interpreter may interpret for a proceeding through VRI for communicating with a D/DB/HH person who is an adult if effective communication is achieved.

(c) Parents and legal guardians may participate in the final determination of whether effective communication is achieved on behalf of the student using VRI services during parent meetings and for any child in a secondary educational setting.

(4) Interpreters in medical and legal settings using VRI shall comply with all medical and legal interpreter standards as required under R 393.5028.

(5) Notification by the D/DB/HH person either by signs or facial expression indicating failure to achieve effective communication shall immediately halt the proceedings. Upon request of the D/DB/HH person, a live qualified interpreter must be obtained to continue.

(6) VRI may be used if an emergency situation exists and the appointing authority has exhausted all local resources within a 60-mile radius to obtain an on-site interpreter, under 1 or more of the following circumstances:

(a) There is an immediate need for intake.

(b) There is an immediate need for triage.

(c) Consultation with deaf family members or partner of a patient is necessary while attempting to stabilize the patient.

(d) The D/DB/HH person consents or agrees with the appointing authority to continue.

(7) In the following situations VRI is not recommended and shall not be used except upon request of the D/DB/HH person:

(a) Initial meetings with a specialist.

(b) Highly sensitive communications, for example, diagnosis of a serious illness.

(c) Eye exams.

(d) Patient transport.

- (e) With a D/DB/HH child.
 - (f) With a D/DB/HH person with a cognitive limitation.
 - (g) With a D/DB/HH person with a secondary disability, for example, low vision.
 - (h) With a D/DB/HH person with an injury or illness that impedes his or her ability to view the screen.
 - (i) With a D/DB/HH person who indicates by sign or facial expression that communication is not being achieved.
 - (j) When consistent and continuous communication cannot be achieved due to equipment failure or poor connectivity.
 - (k) During surgery, under the influence of consciousness altering drugs or medication, child birth, or end of life event.
- (8) Unless the D/DB/HH person states in a written agreement or on record at a court or administrative tribunal that effective communication is being achieved, it will be assumed that effective communication cannot be achieved through the use of VRI services under any of the following circumstances:
- (a) Trials.
 - (b) Contested hearings.
 - (c) Guilty pleas.
 - (d) Mental commitment evaluations and proceedings.
 - (e) Polygraph examinations.
 - (f) Witness testimony.
 - (g) Depositions.
 - (h) Preliminary hearings.
 - (i) Evidentiary hearings.
 - (j) Ex parte domestic proceedings.
 - (k) Cases with multiple deaf participants.
 - (l) Cases with pro se deaf participants.
- (9) Qualified interpreters meeting all level 3 interpreter standards may interpret for a proceeding in legal settings other than those identified in subrule 3(a) of this rule, using VRI services if effective communication is achieved.
- (10) An interpreter shall not interpret for a proceeding using VRI for mental health treatment of any youth under the age of legal consent.
- (11) VRI interpreters must comply with all federal regulations established by the department of justice under Title III of the Americans With Disability Act, as amended, and published on September 15, 2010, section 36.303 (f).

R 393.5056 Notification; prohibited conduct.

Rule 56. (1) A qualified interpreter shall do all of the following:

- (a) Notify the division of a felony conviction within 30 days of the action, regardless of the jurisdiction where it occurred.
 - (b) Notify the division within 30 days after occurrence of any judgment or settlement of malpractice claim or action.
 - (c) Comply with an appearance requested by the division and cooperate with an investigation.
 - (d) Comply with the terms of a division order or the terms of a settlement agreement or consent order issued or executed as resolution of a contested case proceeding.
- (2) A qualified interpreter shall not engage in any conduct that subverts or attempts to subvert a division investigation.

R 393.5058 Waivers.

Rule 58. (1) A D/DB/HH person shall not be coerced, threatened with lack of an interpreter, or intimidated into signing a waiver to utilize a nonqualified individual who signs.

(2) Payment or compensation under MCL 393.507 to an unqualified individual shall not be owed nor rendered under a waiver if the waiver was obtained under threat, duress, or refusal to provide services.

(3) An individual accepting compensation while performing under a waiver obtained under duress is in violation of the act.

(4) A written waiver shall be initiated only by a D/DB/HH person and retained by the appointing authority with a copy sent to the division. An appointing authority who is party to a waiver shall obtain a qualified interpreter to ensure informed consent to the waiver and shall contact the division if he or she believes the waiver was executed fraudulently.

(5) All waivers must be completed on a division created waiver form.

(6) The division shall assist the D/DB/HH persons to understand the purpose of a waiver by ensuring the information is made available in sign language format to be posted on the division's website.

PART 6. GRIEVANCE PROCEDURES

R 393.5061 Filing grievance.

Rule 61. (1) Grievances may be filed with the division for any of the following types of complaints:

(a) Complaints against an appointing authority for using an unqualified individual in violation of the act.

(b) Complaints against a person providing interpreting services without being qualified as required by the act.

(c) Complaints against a qualified interpreter for violation of the act or these rules.

(2) A D/DB/HH person or any other person with first-hand knowledge may file a grievance with the division within 90 calendar days of an event in which the D/DB/HH person or person alleges that a person has violated 1 or more of the following:

(a) The act.

(b) A rule promulgated under the act.

(c) An order issued under the act.

(3) All grievances shall be filed in writing. As an accommodation, a D/DB/HH person may file a video request so that it may be translated by the division into writing.

(4) A D/DB/HH person, appointing authority, or individual involved in an interpreting situation that includes a team interpreter may file a grievance with the division against an interpreter who violates these rules.

(5) Team interpreters filing a grievance shall not be considered in breach of confidentiality.

R 393.5062 Investigation; correspondence file; acknowledgment of grievance.

Rule 62. The division, upon receipt of a grievance, shall immediately begin its investigation of the allegations and shall open a correspondence file. The division shall make a written acknowledgment within 21 business days after receipt of the grievance to the parties involved in the grievance.

R 393.5063 Reply by the respondent; investigation.

Rule 63. (1) The respondent shall reply to the grievance within 21 business days after the respondent's receipt of the grievance. The reply shall be verified by date stamped on registered certified mail.

(2) The division shall conduct the investigation by reviewing the grievance and the respondent's reply to determine whether a violation of the act or these rules occurred. The division may request additional information from either party.

(3) The division may consult with experts in the field or use a member or members of the council to assist with the investigation.

R 393.5064 Investigation; status report; time extension; closing and reopening grievance; preparation of appropriate action; informal conference.

Rule 64. (1) If the division's investigation does not disclose a violation of the act or a rule promulgated under the act, the division shall close the grievance. The reasons for closing the grievance shall be forwarded to the respondent and complainant.

(2) If the division investigation discloses evidence of a violation of the act or a rule promulgated under the act, the division shall prepare a formal complaint against the respondent.

(3) After the issuance of a formal complaint, the division may bring together the complainant and the respondent for an informal conference or mediation. At the informal conference or mediation, the division shall attempt to resolve issues stated on the complaint and may assist the parties in reaching a formal settlement or stipulation.

PART 7. PROCEDURES FOR REVOCATION, SUSPENSION, LIMITATION OF CERTIFICATION, REINSTATEMENT

R 393.5070 Violations; grounds for disciplinary action.

Rule 70. The division may deny, revoke, suspend, or place a limitation on a qualified interpreter certification for 1 or more of the following reasons:

(a) Discrimination, harassment, or retaliation toward an individual for filing a complaint about dissatisfactory interpreting services.

(b) Fraud, deceit, cheating, or misrepresentation in applying for or renewing a certificate under the act.

(c) Violation of any provision of the act or rules promulgated under the act.

(d) Failure of a certified interpreter to submit his or her application or renewal and who continues to work without listing.

(e) Incompetent practice under the act or negligence in the practice of interpreting.

(f) Knowingly aiding or assisting another person to violate any provision of the act or rule promulgated under the act.

(g) Fraud, deceit, cheating, or misrepresentation in the practice of interpreting.

(h) Failure to report to the division any adverse final action taken against him or her by another licensing jurisdiction, peer review body, professional deaf or hard of hearing interpreting association, governmental commission, law enforcement commission, or any court for a deaf or hard of hearing interpreting liability claim reasonably related to acts or conduct similar to acts or conduct that would constitute grounds for action as provided in this rule.

(i) Failure to report to the division the surrender of certificate, license, registration, or authorization to practice interpreting in another state or jurisdiction or surrender of the certificate, license, registration, or authorization to practice interpreting while under disciplinary investigation by any of those authorities or bodies for acts or conduct reasonably similar to acts or conduct that would constitute grounds for action.

(j) Failure to decline or offer to withdraw from an interpreting or transliterating proceeding when effective communication is not substantially achieved or when notified by D/DB/HH or hearing person of inability to consistently understand.

(k) Failure to decline subsequent proceedings with a D/DB/HH person who has informed the qualified interpreter that effective communication was not achieved during a previous encounter.

(l) Offenses evidencing lack of good moral character as described in R 393.5033.

R 393.5072 Formal complaint and notice; service; options; attendance at informal conference; methods of settlement; representation; summary suspension.

Rule 72. (1) After an investigation has been conducted and a formal complaint prepared, the division shall serve the formal complaint upon the respondent through certified mail with a return receipt requested and provide a copy to the complainant.

(2) A respondent upon whom service of a formal complaint has been made has 28 calendar days to reply.

(3) If a respondent fails to file an answer to the complaint with the division within 28 days after receipt of the formal complaint, a default shall be entered by the division. A default may result in a reprimand, suspension, revocation, or limitation of a certificate as provided for in the act.

(4) An informal conference may result in a settlement, consent order, waiver, default, or other method of settlement agreed upon by the parties and the division.

(5) If the informal conference does not result in a resolution of the formal complaint, the matter shall be referred to the Michigan administrative hearing system or its successor for an administrative hearing.

(6) An authorized employee or agent of the division may represent the department in any contested case.

(7) A respondent may be represented at a hearing by an authorized representative or legal counsel at the respondent's own expense.

(8) At any time after a formal complaint is filed involving public health, safety, or welfare requiring emergency action, the department may file a petition in circuit court for the county in which the subject of the formal complaint occurs, or the county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings, including an order or decree restraining the respondent. The court may grant temporary relief or a restraining order as it deems just and proper.

(9) The division shall issue an order summarily suspending a certification based upon the holder of the certificate having been convicted of a felony punishable by imprisonment for a minimum of 2 years.

R 393.5073 Certification; limitations, duration of suspension; standards and procedures for reinstatement after revocation or suspension.

Rule 73. (1) The division may impose a range of sanctions, including limitations, suspension, or revocation of a certification. These sanctions on the certification shall continue until the expiration of the period set forth in the order or until the certification is reinstated pursuant to this rule, whichever is later.

(2) A petition for reinstatement of a certification that has been suspended or revoked shall be made in accordance with this rule.

(3) A certification may be suspended for a period of 6 months, 1 year, 2 years, or completely revoked, depending on severity of the violation or the frequency of violations.

(4) If a certification has been suspended, it will be presumed that the respondent meets the requirements of reinstatement unless any of the following occurs:

(a) Another complaint has been filed and is pending at the end of the minimum suspension period.

(b) A subsequent disciplinary order has been entered.

(c) A petition with supporting affidavit has been filed by a complainant alleging that the respondent has failed to fulfill a term of the suspension order.

(5) The certification shall not be reinstated until the division finds that the respondent meets the following requirements of reinstatement:

(a) The respondent shall file a petition for reinstatement not sooner than 60 days before the end of the minimum suspension period. The petition shall be accompanied by supporting affidavits that the terms of the sanction have been met.

(b) Within 30 days after the petition has been filed, a complainant may file a response to the petition. If the complainant opposes the reinstatement, an informal conference shall be scheduled. If the complainant fails to appear at the scheduled conference, the complainant shall be deemed in default. If a response is not filed, or if the complainant does not oppose reinstatement, the division shall review the petition with supporting affidavits and shall determine whether the requirements of the reinstatement have been met. If the division finds that the requirements have not been met, the respondent shall be notified.

(6) A petition for reinstatement of a revoked certification shall be considered in accordance with subrule (4) of this rule. The petition shall not be accepted sooner than 2 years after the effective date of the revocation, except where the certification was revoked for a felony conviction.

(7) Before reinstating a certification the division shall consider the following in assessing a respondent's ability to practice and the public interest:

(a) The division or authorized committee shall determine whether the respondent has complied with the terms of the revocation.

(b) If the division's final order included corrective measures, remedial education, or training as a condition of reinstatement, the division shall consider the extent of the respondent's compliance with the conditions in the final order. In addition, the division may impose other requirements for reinstatement as deemed appropriate, including additional training, education, or supervision.

(c) If the final order of the division does not address corrective measures, remedial education, or training as a condition of reinstatement, the division, in determining a respondent's ability to practice safely and competently, may consider the need for additional training and education in determining if the petitioner has met the criteria established for reinstatement

(8) After a conference has been completed, the division shall determine whether the respondent has satisfied conditions for reinstatement. The division may deny the petition or grant the petition subject to terms and conditions that it deems appropriate.

(9) A subsequent petition for reinstatement may not be filed with the division for at least 1 year after the effective date of the order denying reinstatement.

R 393.5074 Showing compliance with act, rule, or order.

Rule 74. This rule does not prevent a person against whom a grievance has been filed from showing compliance with the act, or a rule or an order promulgated or issued under the act or under section 92 of 1969 PA 306, MCL 24.292.

R 393.5075 Hearing.

Rule 75. Hearings shall be held pursuant to Administrative Procedures Act Of 1969, 1969 PA 206, MCL 24.201 to 24.328.

R 393.5076 Appointing authorities; allegations of violations.

Rule 76. (1) If the division believes that an appointing authority has used an unqualified person for purposes requiring a qualified interpreter under the act, the division shall notify the appointing authority, in writing, of the allegation.

(2) Subsequent instances of the same allegations shall be referred to a local prosecutor for action pursuant to MCL 393.508.

(3) The division shall be proactive by educating appointing authorities about the provisions of the act and these rules.

R 393.5077 Public inquiries.

Rule 77. (1) Details regarding unsubstantiated grievances shall be immediately purged from the interpreter's file.

(2) The public may inquire if an interpreter has had any formal complaints, disciplinary actions, and the number of substantiated violations. Information regarding violations shall be placed in the person's records with the division, indicating the nature of the violation and the conditions imposed. Substantiated violations will be listed as part of public record on the interpreter database.

(3) Complaints that result in an administrative hearing or disciplinary action, or both, shall be public information, and the files maintained according to retention and disposal schedules of the department.

PART 8. CONTINUING EDUCATION

R 393.5081 Professional development; continuing education.

Rule 81. (1) All state-certified qualified interpreters shall be required to complete 8.0 CEUs during each 4-year cycle established at the time the first Michigan credential is issued to the qualified interpreter. The CEUs shall consist of the following:

(a) A minimum of 5.0 CEUs in professional studies.

(b) A minimum of 2.0 CEUs in ethics.

(c) A minimum of 1.0 CEU in general studies.

(2) One CEU equals 10 clock hours of professional development activity. After completion of the initial CEU hour, credit may be given in ¼-hour increments. Lunch hours, socials, and breaks do not count toward CEUs.

(3) Any RID sponsored CEU activity shall automatically be eligible for professional development credit in this state, provided the applicant provides proof that an event has been approved for CEUs by RID.

(4) CEUs used to satisfy the CEU requirements of another jurisdiction shall be applied to fulfill the Michigan CEU requirements at the applicant's request, if the CEUs meet additional requirements outlined in this section, and provided that appropriate documentation is available.

(5) CEUs offered for other professions may be accepted as general studies.

(6) Proof of successful completion of coursework from an accredited university, college, or other education institution shall be granted CEUs as follows:

(a) Semester system: 1 credit hour = 15 clock hours.

(b) Quarter system: 1 credit hour = 10 clock hours.

(7) CEUs in excess of 8.0 shall not carry over from a 4-year cycle to the next.

(8) Qualified interpreters may earn 2 types of CEUs as follows:

(a) Professional studies consisting of units that deal specifically with topics of interpreting or skill development, deafness, deaf culture, or active involvement (presenting, teaching, and planning). At least 2.0 professional CEUs shall include topics related to ethics.

(b) General studies units that deal with general topics of interest and passive involvement related to deafness or interpreting, or a deafness-related activity that is primarily listening.

(9) If there is a question regarding the CEU described in subrule (8) of this rule, the division interpreter coordinator or director shall make a final determination.

R 393.5082 Division records; professional development; continuing education.

Rule 82. (1) The division shall maintain a database that includes a record of each state-certified interpreter's attained CEUs and for each nationally certified interpreter with endorsements. It is the responsibility of each applicant to ensure his or her hours are properly documented.

(2) Qualified Interpreters shall submit a division CEU reporting form with documents attached to verify his or her participation in activities earning CEUs at renewal time.

(3) Supporting documents will not be returned. Documentation shall include all of the following on a certificate of attendance or letter of participation, or a professional development transcript:

(a) Name of sponsoring organization.

(b) Program date.

(c) Title of program.

(d) Start and stop time.

(e) Signature of sponsor verifying that the participant was present and stayed for the length of the training.

(f) Number of CEUs issued.

(4) Qualified interpreters who fail to maintain appropriate CEUs shall not be eligible for renewal or reapplication until they have satisfied all continuing education requirements.

R 393.5083 Specific CEU requirements; medical; legal; deaf-blind; educational.

Rule 83. (1) Interpreters qualified to interpret for a proceeding in standards level 2 and 3 shall meet the following requirements when fulfilling their continuing education requirements for each cycle, as applicable:

(a) Acquire a minimum of 2.0 CEUs on health care and mental health interpreting related subjects for every 4-year cycle in medical and mental health environments and to maintain medical endorsement.

(b) Acquire a minimum of 2.0 CEUs related to legal interpreting and related subjects for every 4-year cycle in legal environments and to maintain legal endorsement.

(2) Acquire a minimum of .8 CEUs in educational interpreting related subjects for every 4-year cycle in educational settings.

(3) In deaf-blind environments and to maintain deaf-blind endorsement, a qualified interpreter shall complete not less than .8 deaf-blind CEUs per 4 year cycle.

R 393.5084 CEU activities; automatic approval.

Rule 84. College credit or successfully audited college courses documented by a transcript that shows the name of the institution, number of hours, name of participant, date completed, and evidence of successful completion, shall receive automatic approval.

R 393.5085 Sponsored activities.

Rule 85. (1) At least 4 weeks in advance of the activity a person, firm, association, corporation, or group, other than those addressed in R 393.5084, seeking pre-approval as a CEU sponsor shall submit a sponsorship application to the division for approval along with all of the following:

- (a) Completion of DODHH CEU event sponsorship request form available on the division website or through the division office.
- (b) A detailed and timed training outline, a description of course materials and the presenter(s) name(s) and short biography including credentials.
- (c) Copies of advertisements / flyer or registration form.
- (d) Measurable objectives for the program.
- (e) Agreement to display the division approval language and logo.
- (f) Assurance that the sponsor has verification of the expertise of the trainer or workshop presenter in the topics presented.
- (g) The number of contact hours for each program, the date, and the place of the workshop/event.

(2) The sponsor shall verify attendance at each program and provide a signed certificate of attendance only to interpreters who successfully complete the activity or course.

(3) Upon request, the sponsor shall allow division staff or a designee access to observe a sponsored event without cost for compliance review.

(4) Each sponsor shall provide a mechanism for evaluation of the program by the participants.

(5) If a sponsor fails to comply with any of the requirements of this rule, then the division shall notify the sponsor that it will not accept attendance at, or participation in, any of that sponsor's CEU programs until the division receives assurance of compliance with this rule.

(6) The division may decline to sponsor an activity that does not enhance professional development or that may present a conflict of interest for the division.

R 393.5086 Independent study.

Rule 86. All workshops, study groups, professional conferences, or other mentoring activities that are self-directed shall be submitted for preapproval by the interpreter to the division at least 4 weeks in advance of the activity. All of the following documentation shall be submitted, as appropriate:

(a) An independent study form provided by the division with an application fee, as required in R 393.5094.

(b) A timed, detailed agenda or advertisement.

(c) A certificate of attendance received after participation, or a letter of verification on official letterhead of the sponsor, stating the name of the participant, time attended or spent in participation, and the topic.

PART 9. PROCEDURES FOR RENEWAL

R 393.5091 Renewal; expiration; renewal of credentials.

Rule 91. (1) Each interpreter desiring to interpret for a proceeding for D/DB/HH persons residing in this state shall maintain current certification and listing as a qualified interpreter in this state.

(2) The state-issued credential issued to RID certificate holders and EIPA certificate holders shall expire on June 30 of the year following the initial certification.

(3) An interpreter holding an EIPA or RID credential shall annually complete a renewal application on forms provided by the division, enclose the appropriate fee, professional development documentation and submit the application so that it is postmarked on or before June

30. Each nationally-certified interpreter shall also submit a valid copy of his or her interpreter card issued by RID or receipt showing certification maintenance payment and certification level(s).

(4) Applications submitted by the postmark date of June 30 shall be exempt from late fees; however, the postmark does not guarantee processing of the applications mailed less than 10 business days prior to June 30.

(5) Any RID or EIPA certified interpreter who fails to renew his or her qualified interpreter certificate in this state by June 30 of the year in which his or her credential expires shall pay a late fee equal to $\frac{1}{2}$ the renewal fee as provided under R 393.5094 in addition to the regular renewal fee.

(6) Any RID or EIPA certified interpreter who fails to submit his or her renewal within 45 calendar days following the date that the credential expired shall pay a reinstatement fee in addition to late fees.

R 393.5092 Renewal for state-certified qualified interpreters; retesting.

Rule 92. (1) The state-issued credential of every qualified interpreter holding state issued certification by examination shall meet the renewal requirements of R 393.5091.

(2) The state-issued credential to BEI certificate holders shall expire annually on the date of the initial certification.

(3) The state-issued credential to DI certificate holders shall expire annually on the date of the initial certification.

(4) Interpreters holding a state issued certification shall annually complete a renewal application on forms provided by the division, enclose the appropriate fee and professional development documentation and submit the application so that it is postmarked on or before their individualized date.

(5) Any qualified interpreter who fails to renew his or her qualified interpreter certificate in this state by the due date in which his or her credential expires shall pay a late fee equal to $\frac{1}{2}$ the renewal fee as provided under R 393.5094 in addition to the regular renewal fee.

(6) Any state-certified qualified interpreter who allows his or her credential to lapse shall be required to retest, unless the fully completed renewal is submitted within 45 calendar days following the date that the credential expired.

(7) An interpreter's testing cycle begins upon achieving an MI BEI. At the end of each 4-year testing cycle, a qualified interpreter achieving an MI BEI 1 certificate on the state-administered examination MI BEI shall continue to retest for a higher certification in addition to meeting all other renewal requirements. An extension will not be granted for failure to complete a test prior to the end of the testing cycle. A reinstatement fee plus testing will be required.

(8) The holder of an MI BEI 1 shall turn in his or her CEU requirements annually.

(9) Upon passage of the MI BEI 2 test or higher level, an interpreter qualified through the state-certification process shall not be required to test every 4 years as long as all other renewal requirements are met. The interpreter may submit CEU requirements upon full completion of all units or at any time with his or her annual fee prior to completion of the 4-year cycle.

R 393.5093 Notification; change of address; renewal.

Rule 93. (1) Each qualified interpreter shall notify the division of any change of address or contact information within 30 days of the occurrence of the change.

(2) Failure to receive a renewal notification from the division shall not constitute an excuse for failure to submit a renewal application to the division with the appropriate documentation and fees by the due date.

R 393.5094 Fees.

Rule 94. The following fees shall be paid to the division, as appropriate:

- (a) Renewal or application fees provided under MCL 593.8e.
- (b) Testing fees provided under MCL 593.8e.
- (c) Fees for other services provided by the division to carry out the provisions of MCL 408.204 as follows:

- (i) A \$45 renewal fee that includes the late fee prescribed in R 393.5091, if a person fails to renew on or before the expiration date prescribed by the division.

- (ii) A \$10 duplicate credential fee, if the person applying for a duplicate credential signs a statement verifying that the original document has been lost, stolen, or destroyed.

- (iii) A \$10 fee for providing written verification that a person is or is not certified with the division at the time of the request for verification.

- (iv) A \$35 fee to provide specific detailed information in addition to and including the information described in paragraph (iii) of this subdivision.

- (v) A \$10 fee for correcting division records and issuing a new credential when a person notifies the division of a change of name, address, or employer. If the change does not require the issuance of a new credential, no charge shall be made for correcting the division's records.

- (vi) A \$20 fee for an assessment of English skills for interpreters who have not already passed an equivalent assessment, when required for medical and legal designations, or as an English proficiency proctoring fee.

- (vii) A \$25 fee for organizational sponsorship of professional development units (CEUs).

- (viii) A \$125 reinstatement fee as described in R 393.5091(6) and R 393.5092(7).

R 393.5095 Refunds; conditions; rescheduling examinations.

Rule 95. (1) The division shall issue refunds if it cancels an examination or service that was paid for and not received due to cancellation or error by the division, except for events that will be rescheduled.

(2) If approved by the division, a refund shall be issued if the testing candidate or his or her immediate family experiences death, serious illness, a call to active duty, or another situation beyond his or her control. The individual shall notify the division of the circumstance as soon as possible before the event for which the fee was paid. Proof shall be provided no later than 30 days after the occurrence.

(3) Failure to appear for a performance examination on a scheduled date, or arriving more than 15 minutes late for a confirmed performance examination, shall result in forfeiture of the examination fee, unless waived by the division.

(4) The fee is subject to forfeiture if the TEP candidate fails to arrive or arrives after the testing door has closed.

(5) Consideration shall be given for severe weather conditions if they cause an applicant to fail to appear or to be late in arriving to the examination.

(6) The division shall follow school closure notification in determining severe weather to cancel events or testing. If the school district is closed, testing shall be cancelled and rescheduled. No refunds shall be given if an event is rescheduled.

(7) The division shall offer an opportunity to the applicant to reschedule an examination as soon as possible after the cancellation of the examination. If the individual does not complete the examination within 1 calendar year of the cancellation, then the fee shall be forfeited.

NOTICE OF PUBLIC HEARING

**MICHIGAN DEPARTMENT OF CIVIL RIGHTS
DIVISION ON DEAF AND HARD OF HEARING**

**NOTICE OF PUBLIC HEARINGS
2/15/2013**

Michigan Department of Civil Rights - Division on Deaf and Hard of Hearing will conduct public hearings to receive public comment on the following proposed administrative rules: Qualified Interpreter – General Rules.

The proposed rules are new rules. These rules are promulgated by the authority conferred on the Division on Deaf and Hard of Hearing by section 8a of the Deaf Persons Interpreters Act, 1982 PA 204, MCL 393.508a, section 9 of the Division on Deafness Act, 1937 PA 72, MCL 408.209, and ERO 1996-2, MCL 445.2001, ERO 2003-1, MCL 445.2011, and ERO 2008-4, MCL 445.2025

These rules govern procedures for application, testing, revocation, suspension or limitation of certification, continuing education, renewals, and grievances, minimum credential requirements and levels, and minimum standards of practice. These rules are proposed to take effect upon filing with the Secretary of State.

The proposed rules are published in written format on the DODHH web site accessible at:
http://www.michigan.gov/mdcr/0,1607,7-138-58275_28545---,00.html

They are also available in ASL format on YouTube:

<http://www.youtube.com/midodhh>

Braille copies of the document may be obtained upon request.

These rules are published in the March 1, 2013 Michigan Register.

Public hearings will be held on the proposed rules on:

Wednesday March 6, 2013, 6:00 - 9:00 P.M.

Grand Valley State University
Pew Campus' Eberhard Center – 2nd Floor Conference Room
301 West Fulton
Grand Rapids, MI
Free Parking – Surface Lot

Friday, March 8, 2013, 6:30 – 9:30 P.M.

Cadillac Place - Room L-150
3054 W. Grand Blvd
Detroit, Michigan
Parking is available at paid meters and parking lots

Saturday, March 9, 2013, 9:00 A.M. – Noon

Michigan School for the Deaf - Gym
1235 W. Court Street Flint, Michigan
Free Parking – Surface Lot

Signed, oral, or written comments may be presented in person at the hearings or submitted in writing by mail, email, or facsimile. Deaf persons may leave signed comments by VP at (517) 507-5223 all comments must be received no later than 5:00 p.m. on March 18, 2013.

All comments will be reviewed and considered in the final version of the rules.

Written comments may be submitted to the following:

DODHH - Public Comment
201 N Washington Square
Lansing, MI 48913
Email: DODHH@michigan.gov
Fax: (517) 335-7773

All of the meeting sites are accessible. Please refrain from using heavily scented personal care products. Sign Language Interpreters and CART will be provided at all public hearings. If additional special accommodations are needed to participate in the public hearings, contact Amanda Niven via email at NivenA@michigan.gov or by phone at (877) 499-6232 or (517) 507-5223 (vp), no later than March 4, 2013.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF NATURAL RESOURCES

FOREST MANAGEMENT FISHERIES DIVISION

~~JORDAN RIVER~~ NATURAL RIVER ZONING

Propose Draft February 15, 2013

Filed with the Secretary of State on

(By authority conferred on the ~~commission~~ **director** of the department of natural resources by section 13 of Act No. 231 of the Public Acts of 1970, being S281.773 of the Michigan Compiled Laws **30512 of Part 305 of 1994 PA 451, MCL 324.30512, and Executive Orders 1991-22, 2009-45, and 2011-1, MCL 299.13, 281.99919, and 281.99921)**)

R 281.51, R 281.53, R 281.54, R 281.55, R 281.56, R 281.57, R 281.58, R 281.59, R 281.60, R 281.61, R 281.101, R 281.110, R 281.111, R 281.131, R 281.140, R 281.141, R 281.151, R 281.160, R 281.161, R 281.171, R 281.180, R 281.181, R 281.201, R 281.210, R 281.211, R 281.221, of the Michigan Administrative Code are amended; R 281.62, R 281.63, R 281.64, R 281.65, R 281.66, R 281.70, R 281.71, R 281.80, R 281.81, R 281.90, R 281.91, R 281.100, R 281.110, R 281.120, R 281.121, R 281.130, R 281.150, R 281.170, R 281.190, R 281.191, R 281.200, R 281.220, of the Michigan Administrative Code are added; and R 281.52, R 281.102, R 281.103, R 281.104, R 281.105, R 281.106, R 281.107, R 281.108, R 281.109, R 281.112, R 281.113, R 281.114, R 281.132, R 281.133, R 281.134, R 281.135, R 281.136, R 281.137, R 281.138, R 281.139, R 281.142, R 281.143, R 281.144, R 281.145, R 281.152, R 281.153, R 281.154, R 281.155, R 281.156, R 281.157, R 281.158, R 281.159, R 281.162, R 281.163, R 281.164, R 281.172, R 281.173, R 281.174, R 281.175, R 281.176, R 281.177, R 281.178, R 281.179, R 281.182, R 281.183, R 281.184, R 281.202, R 281.203, R 281.204, R 281.205, R 281.206, R 281.207, R 281.208, R 281.209, R 281.212, R 281.213, R 281.214, R 281.222, R 281.223, R 281.224, R 281.225, R 281.226, R 281.227, R 281.228, R 281.229, R 281.230, R 281.231, R 281.232, R 281.233, R 281.234, R 281.251, R 281.252, R 281.253, R 281.254, R 281.255, R 281.256, R 281.257, R 281.258, R 281.259, R 281.260, R 281.261, R 281.262, R 281.263, R 281.264, R 281.271, R 281.272, R 281.273, R 281.274, R 281.275, R 281.276, R 281.277, R 281.278, R 281.279, R 281.280, R 281.281, R 281.282, R 281.283, R 281.284, R 281.321, R 281.322, R 281.323, R 281.324, R 281.325, R 281.326, R 281.327, R 281.328, R 281.329, R 281.330, R 281.331, R 281.332, R 281.333, R 281.334, R 281.341, R 281.342, R 281.343, R 281.344, R 281.345, R 281.346, R 281.347, R 281.348, R 281.349, R 281.350, R 281.351, R 281.352, R 281.353, R 281.354, R 281.355, R 281.361, R 281.362, R 281.363, R 281.364, R 281.365, R 281.366, R 281.367, R 281.368, R 281.369, R 281.370, R 281.371, R 281.372, R 281.373, R 281.374, R 281.375, R 281.381, R 281.382, R 281.383, R 281.384, R 281.385, R 281.386, R 281.387, R 281.388, R 281.389, R 281.390, R 281.391, R 281.392, R 281.393, R 281.394, and R 281.395 of the Michigan Administrative Code are rescinded.

R 281.51 Definitions.

Rule 1. (1) **As used in these rules:**

~~(1) (a)~~ **"Applicant"** means a person who requests on ~~proper forms~~ **a form provided by the department** and via proper procedures, a zoning permit **for a principal use, special use, exception permit or variance.**

~~(2) (b)~~ **"Appurtenance"** means a structure **or accessory building** incidental to a **principal or exempt use dwelling** including, but not limited to ~~garages, pump houses, wells, sanitary facilities electrical service lines.~~ **all of the following:**

(i) Detached garage.

(ii) Residential storage shed.

(iii) Barn and other agricultural storage and livestock structure.

(iv) Pump house.

(v) Private access roads and driveway.

(vi) Electrical service line.

~~(3) "Commission"~~ means the natural resources commission

(c) "Bankfull" means the width of the stream that corresponds to the depth where water fills a main channel to the point of overflowing.

(d) "Bed and breakfast" means a single-family dwelling providing not more than 3 bedrooms for rent and breakfast served to transient overnight guests only and is the owner's primary residence and is occupied by the owner at the time of rental.

(e) "Bluff" means a bank that rises at a slope of 33 degrees or greater from within 10 feet of the river's edge. The crest of the bluff is the first riverward facing area (approximately parallel to the river) that breaks to a slope of less than 18 degrees for a distance away from the river of at least 25 feet.

(f) "Bridge" means any structure of any span length designed to provide a pedestrian, vehicle, livestock, or any other stream crossing, including but not limited to, a culvert, open bottom arch, and clear-span or multi-span structure.

(g) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue a building permit and to administer the state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(h) "Campground" means a parcel or tract of land in which sites are offered for the use of the public or a member of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units; "campground" does not include a seasonal mobile home park licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(i) "Certificate of zoning compliance" means a certificate issued by the zoning administrator upon determination that the construction and use of land and any structure, as authorized by a zoning permit, including the approved site plan, is in compliance with the approved zoning permit and site plan.

(j) "Cutting edge of the river" means the outside bend of a river or stream channel where the water velocity is such that it may cause soil or streambank erosion.

(k) "Designated natural river" means a river designated by the director under the authority of part 305, natural rivers, 1994 PA 451, MCL 324.30501 to 324.30515.

~~(4) "Director"~~ means the director of the department of natural resources.

(l) "Dock" means a seasonal or permanent platform located at the water's edge or extending into the river channel, intended for securing and facilitating access to watercraft or to facilitate access to deeper water for swimming, fishing, or other water-oriented

recreational activity and does not include a wall, railing, a storage locker, an attached bench, or any similar structure attached thereto.

~~(5) "Dwelling" means a building, or portion thereof, which is designed or used exclusively for residential purposes.~~

~~(6) "Dwelling, single family" means a detached building designed for or occupied exclusively by 1 family and containing housekeeping facilities.~~

(m) "Effective date of these rules" means the zoning rule promulgation date for each designated natural river as follows:

(i) Jordan river – September 25, 1974.

(ii) Betsie river – June 11, 1977.

(iii) White river - May 5, 1979.

(iv) Huron river – June 2, 1980.

(v) Rogue river – June 2, 1980.

(vi) Boardman river – June 2, 1980.

(vii) Pere Marquette river – July 15, 1981.

(viii) Rifle river – April 24, 1984.

(ix) Flat river – June 21, 1984.

(x) Pigeon river – February 13, 1985.

(xi) Au Sable river – August 15, 1990.

(xii) Pine river – December 27, 2004.

(xiii) Upper Manistee river – December 27, 2004.

(xiv) Two Hearted river – effective date of these rules.

(xv) Lower Kalamazoo river - effective date of these rules.

(xvi) Fox river - effective date of these rules.

(n) "Filtered view" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river. The vegetation need not be so dense as to completely block the river view.

(o) "Floodplain" means an identified or documented area of land adjoining a river or stream that will be inundated by a 100-year flood, as defined in part 13, floodplains and floodways, MCL 324.1301 to 324.1311.

~~(p)~~ **(p) "Front" means that side segment of a lot or parcel closest to or abutting the water's edge of the mainstream or tributary designated natural river.**

(q) "Ground floor area" means the area of the ground covered by a dwelling measured on the outside of a building, including a covered porch and attached garage, but not including a deck or patio.

(r) "Home-based occupation" means a business activity that is secondary to the use as a residence of a single-family dwelling and may be conducted on or off the premises of a single-family dwelling by the resident of that single-family dwelling, and may include storage of vehicles and equipment.

(s) "Impervious surface" means a surface, including a paved and unpaved driveway, deck, rooftop, road, patio, swimming pool, or parking lot, that does not allow stormwater to infiltrate the ground.

~~(8)~~ **(t) "Lot" means a continuous area, parcel, or acreage of land occupied or intended to be occupied by 1 dwelling and appurtenances incidental to it, including such open spaces as are arranged and designed to be used in connection with such buildings that can be described for purposes of transfer, sale, lease, rental, or other conveyance.**

(u) "Lot area" means the area inside the lot lines.

(v) **"Lot of record"** means a lot that exists in a subdivision plat as shown by records of the county register of deeds existing before the effective date of these rules or a lot or parcel described by metes and bounds and recorded by the county register of deeds before the effective date of these rules.

(w) **"Lot, vacant"** means a lot that does not contain a single-family dwelling.

~~(9)~~ (x) **"Natural river district"** means ~~the Jordan river natural river district as described in subrule (1) of R 281.53~~ a natural river area designated by the director.

(y) **"Ordinary high-water mark"** means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

~~(10)~~ (z) **"Reforestation"** means renewal of vegetative cover by seeding, planting, or transplanting.

~~(11)~~ (aa) **"Setback"** means the horizontal distance as specified in these rules between any portion of a structure and the ~~water's edge~~ ordinary high-water mark or crest of a bluff, measured at its the structure's closest point to the ordinary high-water mark or crest of a bluff.

(bb) **"Short-term rental facility"** means a single-family dwelling with no more than 3 bedrooms offered as a residential rental facility for a rental period of less than 30 days.

(cc) **"Single-family dwelling"** means a structure designed to be used exclusively for residential purpose, including long-term residential rental purpose, and contains kitchen and bathroom facilities.

~~(12)~~ (dd) **"Structure"** means anything which is constructed, erected, or to be moved to or from any premise lot and which is permanently located above, on, or below the ground, including a building, mobile home, road, boardwalk, signs, and billboards, satellite dishes greater than 32 inches in diameter, any communication structure, or a fence. An enclosed, self-contained camping unit is not considered a structure if on site fewer than 30 days per calendar year and if located landward of the natural vegetation strip, or if the structure is located on a campsite within a campground licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, if both the individual campsite and the campground were established before the effective date of these rules.

(ee) **"Wetland"** means land characterized by the presence of hydric soils or water at a frequency and duration sufficient to support wetland vegetation or aquatic life as defined in the wetlands protection act, part 303, 1994 PA 451, MCL 324.30301 to 324.30329.

~~(13)~~ (ff) **"Zoning administrator"** means the administrator of these zoning rules appointed as delegated by the natural resources commission director.

~~(14)~~ (gg) **"Zoning permit"** means a standard form written permission issued granted by the zoning administrator upon application and declaration by the owner or his duly authorized agent approving proposed construction of a and use of land and buildings and a structures thereon.

~~(15)~~ (hh) **"Zoning review board"** means a group of 3 or more persons appointed by the commission to act upon requests for special exceptions not more than 7 members appointed by the department to implement these rules.

(2) Terms not defined in these rules shall have the meanings customarily assigned to them.

R 281.52 Purpose; intent; scope.

Rule 2. (1) It is the purpose of these rules **to do the following:**

(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damages due to **misuse**, unwise development patterns, **overcrowding, and overuse** within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.

(b) To protect, **preserve, and enhance the natural river district values for the free flowing conditions, water conservation**, fish, **aquatic**, and wildlife resources, **ecological**, water quality, **floodplain**, scenic and aesthetic qualities, boating, ~~and~~ historical, and recreational values **and uses of the Jordan river a designated natural river district** and adjoining land.

(c) ~~To prevent flood damages due to interference with natural floodplain characteristics by excluding development which is vulnerable to flood damages.~~ To provide for residential and other permitted development that will complement the natural characteristics of the natural river system.

(d) To achieve the goals and objectives of the department's natural river plan.

(2) It is the intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards to promote the purposes identified in these rules. It is further intended to provide for administration and enforcement of these rules and remedy for a violation of these rules.

(3) It is not the purpose of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinance, rule, regulation, or private restrictions placed upon property by covenant or deed. If a provision of law is less restrictive than the provisions of natural rivers, part 305, 1994 PA 451, MCL 324.30501 to 324.30515 and these rules, the provisions of natural rivers, 1994 PA 451, MCL 324.30501 to 324.30515, and these rules shall apply.

R 281.53 ~~Boundaries; map; abrogation and other restrictions~~ **Exempt use.**

Rule 3. (1) ~~The Jordan river natural river district is that area comprising the Jordan river and its tributaries from its source in section 22, T31N, R5W in Antrim county to Roger's bridge in section 35, T32N, R7W in Charlevoix county and all lands lying within 400 feet of the river's edge. Land uses exempt from a zoning permit in a designated natural river district include the following:~~

(a) Private, non-commercial recreation which does not involve a structure, equipment, or other device, and includes camping, boating, fishing, hunting, and other similar activities.

(b) Reforestation and any other accepted forest management practice that does not involve a structure and is landward of the natural vegetation strip.

(c) Agricultural activities, including general and specialized farming such as a Christmas tree farm, provided that any new activity occur landward of the natural vegetation strip and provided such use does not contribute to stream degradation. Construction of a residential and farm-related structure and appurtenance is classified as a principal use and is subject to zoning permit requirements. Any new aquaculture facility or concentrated animal feeding operation, and expansion of any existing aquaculture facility or concentrated animal feeding operation, is not permitted within the natural river district without a land use variance as described in R 281.60. Resumption of a prior agricultural use previously located within the natural vegetation strip and discontinued, for example, rotation of crop fields, may resume if 1 of the following criteria is met:

(i) The cessation of use was within 10 years of resumption of use.

(ii) The cessation of use was due to implementation of a management plan written before the effective date of these rules.

(iii) The cessation of use was the result of a written agreement with a governmental agency or agencies entered into before the effective date of these rules.

(iv) The cessation of use was the result of a written agreement with a governmental agency or agencies entered into after the effective date of these rules or ordinances implementing this plan, where the term of cessation of use specified in the agreement is for 10 years or less.

(v) The cessation of use was required or imposed by a governmental agency or agencies.

(d) Cutting of low growing vegetation and placement of wood chips on uplands in the natural vegetation strip to create a single footpath of not more than 4 feet in width leading to a single point on the river's edge. A boardwalk or other artificial walkway is not exempt and requires a zoning permit as specified in R 281.57.

(e) A sign for identification, direction, resource information, exclusion of trespassers, regulation of use and those related to permitted uses, subject to the following provisions:

(i) A sign for the sale of a product or service is prohibited, unless related to a permitted use, located on the site of the permitted use, not located in the natural vegetation strip and not visible from the river.

(ii) An illuminated sign is prohibited.

(iii) "No trespassing" sign shall be not larger than 1 square foot in area and shall be spaced at least 100 feet apart. Other signs may be not larger than 2 square feet in area, except 1 real estate sign may be not larger than 4 square feet in area if located outside the natural vegetation strip.

(f) Routine maintenance and repair of a legal use or structure within the existing foundation and structure, subject to R 281.57.

(g) A satellite dish not more than 32 inches in diameter and located landward of the natural vegetation strip or attached to an existing single-family dwelling, short-term rental facility, or appurtenance.

(h) Removal of any dead, diseased, or unsafe tree, noxious plant or shrub, within the natural vegetation strip.

~~-(2) Certified copies of the Jordan river natural river zoning map shall be displayed in the office of the county register of deeds and in the office of the zoning administrator and shall be filed with the local tax assessing officer and with the state tax commission.~~

~~-(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions, nor permit actions prohibited by other statutes or ordinances, including zoning ordinances, applicable to the Jordan river natural river district, except that where these rules impose greater restrictions than found on such easements, covenants, or deeds, the provisions of these rules shall prevail.~~

R 281.54 Permitted uses Principal use; application procedure.

Rule 4. The following uses shall be permitted by the owner upon his property within the natural river district, subject to limitations and requirements outlined in these zoning rules, local ordinances and other applicable statutes:

~~-(a) One single family dwelling and appurtenances set back at least 200 feet from the water's edge on a lot at least 150 front feet wide along the mainstream and set back 100 feet with minimum lot width of 150 front feet on the tributaries.~~

~~-(b) Plats if the minimum setback and lot width requirements in subdivision (a) are met.~~

- ~~–(c) Camping and other recreational activities which do not require the construction of permanent facilities.~~
- ~~–(d) Operation of watercraft subject to limitations of local ordinances established under authority of Act No. 303 of the Public Acts of 1967, as amended, being SS 281.1001 to 281.1199 of the Michigan Compiled Laws.~~
- ~~–(e) Fishing and hunting in compliance with current laws and regulations.~~
- ~~–(f) Reforestation.~~
- ~~–(g) Normal agricultural activities, if such activities meet the provisions of these rules and the bureau of water management of the department of natural resources determines that such activities do not contribute to stream degradation.~~
- ~~–(h) Operation of licensed motor vehicles on dedicated public roads or access roads to private dwellings.~~
- ~~–(i) Private footpaths constructed by the landowner of natural materials to facilitate permitted uses.~~
- ~~–(j) Private boat docks constructed by the landowner of natural materials and camouflaged into natural surroundings.~~
- ~~–(k) Mining and extractive industries beyond 300 feet from the water's edge.~~
- ~~–(l) Underground gas and utility lines.~~
- ~~–(m) Surface gas and utility lines on lands, or interests in real property continuously owned by the utility from and after January 1, 1971, subject to review and approval by the commission.~~
- ~~–(n) Disposal fields and septic tanks in conformance with local county health codes.~~
- ~~–(o) Cutting and filling of the land surface except where the high ground water table is within 6 feet of the land surface.~~
- ~~–(p) Other uses which are granted permits by the zoning administrator according to R 281.56 and R 281.59.~~

(1) An application for a principal use shall be submitted and processed pursuant to all the following:

(a) An application for a principal use shall be completed by the applicant on a form provided by the department and submitted to the zoning administrator. A completed application shall contain all of the following:

- (i) A completed application form signed by the applicant or the applicant's representative.**
- (ii) A site plan that meets the requirements of R 281.56.**
- (iii) Evidence of ownership or a legal interest in the property affected by the application for a principal use, or authorization from the property owner to apply for a principal use.**

(b) Within 21 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information, if applicable.

(c) Within 30 days of receipt of a completed zoning permit application, the zoning administrator shall determine if a permit shall be issued. Approved zoning permits shall be forwarded to the applicant with an approved site plan by the zoning administrator. If the zoning administrator determines a zoning permit shall not be issued, the reason shall be sent to the applicant in writing.

(d) Before commencing construction of a principal use, an applicant shall display the zoning permit and approved site plan in a location easily visible from the nearest street or roadway until the authorized project is completed.

(e) A zoning permit is valid for 2 years and is not transferable. All structures shall be completed within 2 years from the date of issuance of the zoning permit.

R 281.55 Natural vegetation strip Special use; application procedure.

~~Rule 5. A strip 100 feet wide on each side of and parallel to the mainstream and 25 feet wide on the tributaries shall be maintained in trees and shrubs or in its natural state, except that dead, diseased, unsafe, or fallen trees may be removed and trees and shrubs, upon approval of the area forester, may be selectively pruned or removed for landscaping purposes or to provide a filtered view of the river. (1) A special use includes the following:~~

(a) A campground, with associated noncommercial structures, impervious pads, and utility hookups, with all of the following provisions:

(i) Campground shall be constructed and maintained in accordance with all applicable state and local regulations.

(ii) A commercial structure associated with the campground is prohibited in the natural river district.

(iii) A structure shall be at least 200 feet from the high-water mark.

(iv) Not more than 4 campsites per acre.

(v) A 100-foot wide natural vegetation strip along the river shall be maintained.

(vi) Campsites that accommodate a wheeled motorized vehicle shall be at least 200 feet from the high-water mark.

(vii) Walk-in campsite shall be landward of the 100-foot natural vegetation strip.

(viii) Dock may be constructed at the rate of 1 dock not larger than 48 square feet for each 200 feet of river frontage, accessed by a single footpath not more than 4 feet wide.

(ix) Wheeled motorized vehicle access to the river is prohibited.

(x) Launch or retrieval of commercial watercraft at any campground by other than a registered camper, is prohibited.

(b) A permanent vehicle bridge on a tributary, subject to R 281.58.

(2) An applicant shall submit an application for a special use permit on a form provided by the department and submit it to the zoning administrator. A completed application shall contain all of the following information and attachments:

(a) A completed application form signed by the applicant or the applicant's representative.

(b) A site plan that meets the requirements of R 281.56.

(c) Evidence of ownership or a legal interest in the property that is affected by the application for a special use or authorization from the property owner to apply for a special use permit.

(d) A list of all property owners and their mailing addresses, whose property is located within 300 feet of applicant's property being considered for a special use.

(3) The application, together with required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.

(4) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of the hearing to be made not less than 10 days before consideration of the special use application:

(a) Notice of public hearing shall be published in a newspaper that circulates in the township in which the proposal is located.

(b) Notice of public hearing shall be sent by first-class mail or personal delivery to owners of property for which approval is being considered and to all persons whose property is located within 300 feet of applicant's property.

- (c) Notice of public hearing shall also be sent to all of the following:
- (i) Local tax assessing official or officials.
 - (ii) Township and county clerks.
 - (iii) Local building inspector or inspectors.
 - (iv) State, district, or county health department, when applicable.
- (5) The zoning review board shall require that an application for a special use comply with all of the following:
- (a) The purposes specified in R 281.52 are accomplished.
 - (b) A compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.
 - (c) The proposed use, in combination with any other existing use, will not be a detriment to the public health, safety, and welfare.
 - (6) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.
 - (7) The concurring vote of a majority of the eligible voting members of the zoning review board shall be required to approve a special use.
 - (8) A special use granted by the zoning review board shall be valid for 2 years from date of approval. If construction has not, in the opinion of the zoning review board and department, commenced and proceeded meaningfully at the end of the 2-year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use permit.
 - (9) If the zoning review board and the department determine that the applicant has failed to comply with any of the requirements of these rules or the approved special use permit, the department may revoke the special use permit in accordance with the administrative procedures act, 1969 PA 306, MCL 24.201 to 24.328 .
 - (10) An application for a special use denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts and conditions exist which might result in approval upon resubmission.
 - (11) Concurrent with issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.
 - (12) Before commencing construction of a special use, an applicant shall display the permit in a location easily visible from the nearest street or roadway until the purpose for which the permit was issued is completed.

R 281.56 ~~Special exception permits~~ Zoning permit; site plan; certificate of zoning compliance.

~~Rule 6. (1) Special exception permits may be granted to allow uses in the natural river district that are not specifically permitted by R 281.54 where implementation of such uses does not contravene the purposes of these rules as specified in R 281.52. A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit issued by the zoning administrator. A permit shall not be required for an exempt structure, use, or activity as specified in R 281.53.~~

~~(2) Application for special exception permits shall be made on forms provided by the zoning administrator.~~ **An application for a zoning permit shall include a site plan for the entire area proposed for development. The zoning administrator, in the case of a principal use or**

minor variance application, or the zoning review board, in the case of a special use or variance application, may require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use or minor variance application, or waived by the zoning review board, in the case of a special use or variance application, a site plan shall show and include all of the following, either existing or proposed:

- (a) A site plan drawn to scale, with the scale indicated.
- (b) Property dimensions, including river frontage.
- (c) Size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.
- (d) Existing vegetation, including the location and type.
- (e) Adjacent streets and highways.
- (f) Parking areas.
- (g) Cross-section drawing showing height of buildings above water level and bluff heights.
- (h) Entrances to public streets.
- (i) Description of the building design, including proposed construction materials.
- (j) Drainage facilities.
- (k) Location and description of the method to dispose of sanitary waste.
- (l) Proposed landscaping.
- (m) Location of footpaths.
- (n) Signs proposed, including the size, location, and material.
- (o) North arrow.
- (p) Date of drawing.
- (q) Detailed site location map.
- (r) Any additional information required by the zoning administrator or zoning review board to carry out the administrator's or board's duties. Additional information may include all of the following:

- (i) Soil types.
 - (ii) Topography.
 - (iii) Building elevations.
 - (iv) Site photographs.
 - (v) Anticipated traffic volume.
 - (vi) Traffic patterns.
- (3) Upon receiving an application for a special exception permit, the zoning review board at any time prior to rendering a decision thereon shall require the applicant to furnish such of the following information as is deemed necessary by the zoning review board for determining the suitability of the particular site for the proposed use:
- ~~(a) A detailed description of the proposed activity or use.~~
 - ~~(b) A plan (surface view) showing elevations or contours of the ground, including existing earth fills; generalized vegetative cover map; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, access roads, water supply and sanitary facilities.~~
 - ~~(c) Photographs showing existing land uses and vegetation as seen upstream and downstream from the proposed use.~~
 - ~~(d) Valley cross sections showing the natural stream channel, streambanks, and high water marks, if any, with indication of locations of proposed developments.~~

~~(e) Any other information deemed relevant by the zoning administrator.~~

A structure or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has issued a certificate of zoning compliance. The issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A record of all certificates of zoning compliance issued shall be kept on file in the office of the zoning administrator. A certificate of zoning compliance shall not be interpreted as substitute for a certificate of occupancy required by local building code or local zoning permit.

~~(4) Before considering applications, the zoning review board shall give notice by certified mail to all property owners within 500 feet of the proposed use, and to local officials and department of natural resources personnel, including but not limited to: township supervisor, county health officials, county and township zoning officials, soil conservation service, and regional office and natural rivers section of the department of natural resources.~~

~~(5) In passing upon applications, the zoning review board shall consider all relevant factors specified in these rules, in the light of the spirit and intent of the purposes as specified in R 281.52.~~

~~(6) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 15 days from receiving the application, except that, where public hearings are held or additional information is required pursuant to subrule (3), it shall render a decision within 15 days of the end of hearings or receipt of the last requested information.~~

~~(7) The zoning review board shall attach such conditions to the granting of special exceptions as are necessary to further the purposes of these rules.~~

~~(8) A special exception use shall adhere strictly to the terms of the special exception permit.~~

R 281.57 Nonconforming uses Home occupation and home-based occupation; land alteration; lot; dwelling; building setback; impervious surface; drinking water supply well; height of structure; dock; river access stairway; boardwalk; natural vegetation strip; standards.

Rule 7. (1) The lawful use of any land or structure existing at the effective date of these rules may be continued, although the use does not conform with these rules. A home occupation or home-based occupation in a designated natural river area shall conform to all of the following:

(a) The use of the dwelling unit or related structure for a home occupation or home-based occupation shall be clearly incidental and subordinate to its use for residential purposes as a single-family residential dwelling.

(b) Equipment or a process shall not be used in a home occupation or home-based occupation if it creates excessive noise, vibration, fumes, odors, or electrical interference that is detectable to the normal senses off the premises.

(2) Repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition may be made. Remodeling of nonconforming structures within the confines of the existing foundation and elevations shall be permitted. Land alteration shall conform to all the following requirements:

(a) Land alteration shall not occur within the natural vegetation strip except placement of wood chips for a foot path as provided in R 281.53, on the face or crest of a bluff, in a wetland, in a floodplain, or below the ordinary high-water mark of the river unless associated with bank stabilization or fisheries habitat improvement activities.

(b) Draining a wetland is prohibited.

(c) A pond may be constructed if the pond meets the building setback established for the natural river district, spoils are placed in a non-wetland, non-floodplain area landward of the natural vegetation strip, and the pond is not connected to the river by any surface or subsurface drainage system. A pond shall not be constructed in a wetland or the 100-year floodplain.

(d) Bank stabilization or fisheries habitat activities shall comply with all of the following:

(i) Bioengineering practices shall be the preferred alternative for bank stabilization.

Bioengineering practices used to stabilize stream banks utilize a combination of native plantings and natural or biodegradable materials to engineer shoreline protection that mimic and or enhance the natural landscape.

(ii) Rock used for bank stabilization above the seasonal low-water level of the stream shall be rounded cobble (fieldstone).

(iii) Quarried limestone or other natural angular stone shall not be exposed by seasonal low water level of the stream.

(iv) An in-stream fisheries habitat structure, such as a lunger, an overhead cover platform or similar structure, shall be, upon completion, indistinguishable from the natural surrounding landscape.

(v) A seawall, vertical bulkhead, gabion basket, concrete bag riprap, broken concrete, and other similar structures are prohibited.

(vi) The proposed project shall fulfill an identifiable need for erosion protection, bank stabilization, or fisheries habitat improvement.

~~(3) A special exception permit shall be granted by the zoning review board when a nonconforming building or structure is damaged or destroyed by fire, flood, or other means, and it may be restored if restoration is started within 1 year from the time of damage. Where there are several buildings or structures which are used together by the landowner as a single operating unit, the value of the part destroyed shall be compared to the value of the total operating unit in determining whether 50% of the value has been destroyed. A nonconforming building or structure damaged by more than 50% of its value may be reconstructed or repaired only if all of the following conditions exist:~~

~~(a) The land upon which it is situated is not subject to flooding.~~

~~(b) Continued use of a nonconforming building or structure would not lead to bank erosion or other material degradation of the river resource.~~

~~(c) The continued use conforms with local county health codes and approval is granted by the local county health department.~~ **A proposed lot with a preliminary plat approval under the land division act, 1967 PA 288, MCL 560.101 to 560.293, but does not meet the dimensional requirements specified for each natural river on the effective date of these rules shall, upon final plat approval, be issued a zoning permit subject to these rules.**

~~(4) The use of a nonconforming structure or land may be changed to a use of a like or similar character, or to a use conforming to the rules of the natural river district.~~ **A lot created before the effective date of these rules which does not possess sufficient land area or lot width may be used for the purposes described and subject to the requirements in these rules.**

~~(5) A nonconforming use of any land or structure may not hereinafter be enlarged or extended without the granting of a special exception permit as provided in subrule (3).~~ **A zoning permit, special use permit, or variance will not be granted for any activity on a lot created after the effective date of these rules if the new lot does not meet the provisions of these rules. A new**

lot shall not be created if construction of a road/stream crossing is required to provide access to the only buildable area.

~~(6) An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation providing overnight facilities not exceeding 12 units may be approved by the zoning review board when the owner submits to the zoning review board a detailed description of the proposed enlargement or extension together with a site plan showing the location of all new structures or uses, and upon a determination that all of the following conditions exist:~~ **Only 1 single-family dwelling or short-term rental facility shall be permitted per lot unless 1 of the following applies:**

~~(a) The land upon which it is situated is not subject to flooding. The property owner submits a site plan for the lot showing theoretical property lines for individual lots that meet all natural river zoning standards, and locate any additional single-family dwelling or short-term rental facility and appurtenance as if the property were divided into those separate lots.~~

~~(b) The enlargement or extension of the nonconforming use would not lead to bank erosion or other material degradation of the river resource. For each single-family dwelling or short-term rental facility placed in a cluster-type setting that does not meet the requirements in subdivision (a) of this subrule, a portion of the lot containing an area equal to a newly created separate legal lot as described in these rules will be made subject to a permanent conservation easement or deed restriction prohibiting construction of any structure within that portion of the lot. A conservation easement will be sold, donated, or otherwise conveyed, in writing in perpetuity, to a land conservancy, local unit of government, or the state. The agency acquiring the conservation easement shall agree, in writing in perpetuity, to refrain from development of the land.~~

~~(c) The enlargement or extended use conforms with local county health codes and approval is granted by local county health department.~~

~~(d) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.52.~~

~~(7) Substitution of nonconforming structures with new structures may be made, but the granting of a special exception permit is required to ensure that the changed uses will conform as closely as possible to the purposes of these rules as specified in R 281.52.~~ **If a proposed single-family dwelling or short-term rental facility is on a vacant, legal, nonconforming parcel that is between and adjacent to 2 parcels that contain a legal single-family dwelling or short-term rental facility that does not meet the minimum building setback standard, and the adjacent single-family dwelling or short-term rental facility are within 150 feet of each other, a minor variance to the building setback standard may be granted that will result in the new single-family dwelling or short-term rental facility being located no closer to the river than the adjacent single-family dwelling or short-term rental facility that is farthest from the high-water mark or landward of the natural vegetation strip or 75 feet from the high-water mark, whichever is greater, and the single-family dwelling or short-term rental facility shall not be placed on lands subject to flooding or in any wetland area. This subrule does not apply to an appurtenance, accessory building, or other structure. Any development shall be in conformance with the bluff development standards established for each designated natural river in these rules.**

~~(8) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.~~ **A drinking water supply well for a single family dwelling or short-term rental facility shall not be located in the natural vegetation strip or closer to the**

river than the structure it serves. A drinking water supply well not meeting the requirements of this rule requires a minor variance subject to R 281.60.

~~(9) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on his property, which certification shall be granted where a use meets the criteria of this rule and the common law criteria of nonconforming uses of the state. The maximum percentage of impervious surface permitted on a lot is as follows:~~

(a) For a lot with less than 10,000 square feet of area, not more than 35% of the land surface may be covered by an impervious surface.

(b) For a lot with between 10,000 square feet and 40,000 square feet of area, not more than 25% of the land surface may be covered by an impervious surface.

(c) For a lot with between 40,001 square feet and 80,000 square feet of area, not more than 20% of the land surface may be covered by an impervious surface.

(d) For a lot greater than 80,000 square feet in area, not more than 10% of the land surface may be covered by an impervious surface.

(10) A structure shall not be more than 35 feet in height measured from the original surface elevation.

(11) A dock shall conform to all of the following:

(a) A dock shall not be more than 48 square feet in area, with not more than 4 feet of the dock extending over the edge of the river.

(b) A dock shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.

(12) A stairway constructed to allow river access shall conform to all of the following standards:

(a) A stairway is not permitted unless no other reasonable and safe access to the river exists.

(b) A stairway shall be low-profile, no more than 4 feet wide, and constructed without stairs being recessed into the ground surface, except if site and soil conditions dictate that a recessed stairway is appropriate.

(c) A landing shall not be constructed unless required by building code, in which case the landing shall be the minimum number and size required by building codes.

(d) Not more than 1 handrail shall be associated with a stairway.

(e) A stairway shall be constructed using natural materials and shall be located and maintained to blend with the natural surroundings.

(13) A boardwalk associated with a footpath to the river's edge shall conform to all of the following:

(a) A boardwalk shall be placed only in an area that is generally too wet to be traversed without significant disturbance of the soils.

(b) A boardwalk and all supports shall be constructed of natural materials.

(c) A boardwalk shall not be more than 3 feet wide.

(d) A boardwalk shall not include any railing.

(e) The top of a boardwalk shall not be more than 12 inches above grade.

(14) Within the natural river district, a natural vegetation strip shall be maintained that includes the river and all lands within the area abutting the river's edge for each designated natural river as specified in these rules. Trees and shrubs may be pruned over not more than a 50-foot width for a filtered view of the river. The natural vegetation strip is also subject to all of the following:

(a) Felling of a tree or removal of other vegetation in the natural vegetation strip is prohibited except for the following:

(i) An unsafe tree, noxious plant, or shrub, such as poison ivy and poison sumac, may be removed without a zoning permit.

(ii) Select tree removal or trimming for forest management practices or disease and insect control, and clearing of vegetation to the minimum width required for public utility primary electric distribution lines and service lines for permitted uses is permitted upon approval of the zoning administrator in consultation with local conservation district staff, if the activity is in keeping with the goals and objectives of the natural river plan.

(b) Mowing is prohibited in the natural vegetation strip except in an area maintained in a mowed condition before the effective date of these rules or to establish a single footpath to the river not to exceed 4 feet wide.

(c) Any island in any stream segment is subject to the natural vegetation strip standards as described in these rules.

(d) Camping, except for tent camping, is not permitted in the natural vegetation strip.

(e) A motorized vehicle shall not be operated off road in the natural vegetation strip.

R 281.58 Variances Bridges.

Rule 8. (1) ~~An applicant who is denied a zoning permit or a special exception permit shall have a hearing held in accordance with and subject to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, being SS 24.271 to 24.287 of the Michigan Compiled Laws, upon petition thereof filed with the director within 30 days of such denial.~~ A bridge for any designated natural river shall conform to all of the following:

(a) An existing bridge that is destroyed by any means, whether on a tributary or mainstream segment, may be replaced. On a mainstream segment or a tributary, subject to mainstream development standards, a destroyed pedestrian bridge may not be replaced with a vehicle bridge. An application for replacement of a destroyed bridge shall be submitted within 12 months of destruction or the replacement bridge shall be considered a new bridge and shall be subject to the standards for a new bridge.

(b) A replacement bridge on any mainstream segment or tributary subject to mainstream development standards, shall span the bankfull channel, have a minimum clearance of 5 feet between the ordinary high-water mark and the bottom of the bridge deck and/or deck supports other than abutments, and be a bottomless structure.

(c) A permanent bridge replacing a bottomless bridge on any tributary not subject to mainstream development standards shall span the bankfull channel and be a bottomless structure, and in the case of any pedestrian bridge, constructed in order to exclude the use by any wheeled or tracked motorized vehicle or snowmobile.

(d) A permanent bridge replacing a bridge without a natural bottom on a tributary not subject to mainstream development standards shall be recessed and span the bankfull channel, and, in the case of any pedestrian bridge, be constructed to exclude the use by any wheeled or tracked motorized vehicle or snowmobile.

(e) A new bridge of any type is prohibited on any mainstream segment and on any tributary subject to mainstream development standards.

(f) A new bridge is not permitted on any designated river segment on any parcel that is created after the effective date of these rules, other than on the original parent parcel.

(g) A new pedestrian bridge may be permitted on a tributary not subject to mainstream development standards provided the lands connected by a new bridge are collectively owned by 1 person.

(h) A new permanent bridge on a tributary not subject to mainstream development standards shall span the bankfull channel and be a bottomless structure and, in the case of a pedestrian bridge, be constructed to exclude the use by any wheeled or tracked motorized vehicle or snowmobile.

(i) A new permanent vehicle bridge on a tributary not subject to mainstream development standards requires a special use permit as specified in R 281.55.

(j) Only 1 bridge is permitted to access a portion of land that is otherwise inaccessible from the owner's contiguous property.

(k) A temporary vehicle bridge on a tributary not subject to mainstream development standards for the purpose of access for timber harvest may be permitted provided it is constructed in a manner that minimizes impacts to the stream and aquatic organisms and shall be removed immediately after timber harvesting activities. All disturbed areas in the natural vegetation strip shall be revegetated with native vegetation, any fill placed shall be removed, and the land shall be returned to its original grade as soon as possible after removal of the bridge.

~~(2) Upon receipt of a petition for a hearing, the director shall set a date for a hearing on the facts and proposed action, and shall appoint a hearing officer to preside at the hearing. The proposed hearing shall be scheduled not more than 4 weeks after receipt of the petition. The hearing officer shall hear the evidence, prepare a record of the proceedings and a proposal for a decision including findings of fact and conclusions of law.~~

~~(3) The hearing officer shall give notice of the hearing by certified mail to the persons named in subrule (4) of R 281.56.~~

~~(4) The record of the proceedings and proposal for decision shall be transmitted to the commission and shall be served by certified mail on all other parties to the proceedings not more than 3 weeks after completion of the testimony.~~

~~(5) A final decision or order of the commission in a contested case shall be made not more than 8 weeks after the date of the hearing and a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney.~~

~~(6) The commission shall prepare an official record of hearing in accordance with section 86 of Act No. 306 of the Public Acts of 1969.~~

~~(7) The final decision or order of the commission after a hearing is conclusive unless reviewed in accordance with section 87 or sections 101 to 106 of Act No. 306 of the Public Acts of 1969, being SS 24.287 or 24.301 to 24.306 of the Michigan Compiled Laws.~~

~~(8) In determining a final decision in a contested case, the commission shall consider:~~

~~(a) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact and a description of the title history shall be included in the hearing evidence.~~

~~(b) Increase in flood levels and flood damages that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences and other factors relevant within the terms of these rules.~~

~~(c) Cumulative effect upon the natural river district from potential development of holdings in a legal position similar to the applicant's, if variances are requested and granted for these properties.~~

- ~~(d) Reasonable alternatives available to the applicant.~~
- ~~(e) All other factors relevant to the purposes and provisions of these rules.~~
- ~~(9) In weighing the application for a variance, considerations of public health, safety and welfare shall prevail, unless private injury is proved by substantial preponderance of the evidence to be so great as to override the public interest.~~
- ~~(10) A variance shall not be granted where the commission determines that the requested use will pose substantial hazard to life or property rights either public or private.~~
- ~~(11) Where by reason of the narrowness, shallowness or shape of a lot or property at the effective date of these rules, the lot or property cannot accommodate a building because of the required building setback, variances shall be allowed only upon a consideration of the factors prescribed in subrule (8). Such variances shall provide that the structures shall be so placed as to best meet the spirit and objectives of the natural rivers act.~~

R 281.59 Administration Nonconforming lot, use, structure.

Rule 9. (1) The commission shall appoint a zoning administrator and a zoning review board to act as its agents to enforce these rules including the receiving and processing of applications for zoning permits, special exception permits, petitions for variances, requests for changes, amendments or supplements, as outlined in these rules, or other matters the commission is required to decide. **It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted pursuant to these rules. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit the limited expansion of certain legal nonconforming uses and structures.**

(2) ~~A person shall not commence excavation, erection, alteration, or repair for any building or structure or commence a land use until an application for a zoning permit has been made, a site inspection has been completed and a zoning permit has been secured from the zoning administrator. Alterations and ordinary maintenance made on dwellings where total cost does not exceed 5% of the market value of the structure in any 12 month period are exempt.~~ **If the combination of 2 or more contiguous nonconforming vacant lots owned by the same person results in an increase in conformance with the dimensional requirements of these rules, the lots shall be combined for use unless the lots are within a plat established before the effective date of these rules wherein more than 75% of the platted lots contain a single-family dwelling.**

(3) ~~Application for a zoning permit shall be filed in writing with the zoning administrator. There shall be submitted with all applications for zoning permits:~~ **The zoning administrator shall approve an application for a zoning permit for a principal use on a legal nonconforming lot of record subject to both of the following:**

(a) ~~Two copies of a site plan giving accurate dimensions on either a scale drawing or a rough sketch and containing the following information:~~ **The principal use complies with these rules, except the minimum lot width and area requirements.**

- ~~(i) Location upon the lot of all existing and proposed structures.~~
- ~~(ii) Existing or intended use of the structures.~~
- ~~(iii) Generalized vegetative cover.~~
- ~~(iv) Lines and dimensions of the lot to be used.~~

(b) ~~Evidence of ownership of all property affected by the coverage of the permit.~~ **If the non-conforming lot is vacant, the applicant or owner of the subject lot does not own other**

contiguous vacant properties which if combined with the nonconforming lot would result in increasing the conformity of the lot.

~~(c) Evidence that all required federal, state, and county licenses or permits have been acquired or that applications have been filed for the same.~~

~~(d) Other information as may be required by the zoning administrator.~~

~~(4) One copy of both plans and specifications shall be filed and retained by the zoning administrator and the other shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection and issued the zoning permit. To insure that new land uses in the natural river district are in conformance with these rules, the applicant shall display a permit required by these rules face out within 24 hours of its issuance by placing it in a conspicuous place facing the nearest street or roadway and displaying it continuously until the purpose for which issued is completed. Failure to obtain and display a permit is a violation of these rules and subjects each person for whose benefit the permit is required to court action. An application for a zoning permit for a principal use on a legal nonconforming lot of record that is not in compliance with R 281.59 (3) shall be treated as a variance pursuant to R 281.60.~~

(5) If on the effective date of these rules a lawful use of land exists that is made unlawful under these rules, the use may be continued if it remains otherwise lawful, subject to all of the following:

(a) The nonconforming use shall not be enlarged, increased, or extended without a land use variance under R 281.60.

(b) The nonconforming use and the structures associated with the nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by such use on the effective date of these rules unless the move would result in a greater degree of conformity with these rules.

(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.

(6) If a lawful structure exists on the effective date of these rules that is made unlawful under these rules, the structure may remain if otherwise lawful, subject to all of the following:

(a) The structure may not be altered in a way that increases its nonconformity, such as expanding toward the ordinary high-water mark or increasing the height above the maximum height standard. The ground floor area of any legal nonconforming single-family dwelling or short-term rental facility may be expanded by up to 50%, or up to 75% if a variance for not more than a 25% reduction in the building setback standard is granted, of the existing ground floor area cumulative from the date of nonconformance, or to the minimum extent necessary to comply with local standards for minimum legal floor area for dwellings, whichever is greater, if the expansion does not increase the nonconformity of the dwelling. Any alteration of a legal nonconforming dwelling must, to the extent possible, be in compliance with all setback and other building requirements. Any expansion of a lawful, nonconforming dwelling, including construction of additional stories, shall be treated as a variance under R 281.60. Construction of a new legal nonconforming accessory building or expansion of the ground floor area of an existing legal nonconforming accessory building is considered to be an expansion of the ground floor area of an associated legal nonconforming single-family dwelling or short-term rental facility.

(b) Expansion of a legal nonconforming single-family dwelling or short-term rental facility may be permitted by the zoning administrator as a minor variance if any of the following apply:

(i) Part or all of the expansion is located within the natural vegetation strip, expansion of the dwelling is landward of the existing structure, the expansion is not more than a 50% increase in ground floor area cumulative from the date of nonconformance, the height of the expansion is not greater than the height of the original dwelling and the expansion is not located in a wetland or the 100-year floodplain.

(ii) All of the expansion is located landward of the natural vegetation strip, expansion of the dwelling is not closer to the river than the closest point of the existing dwelling's foundation, the expansion is not more than a 50% increase in ground floor area (or 75% if the variance is not more than a 25% reduction in the building setback standard) cumulative from the date of nonconformance, the height of the expansion is not greater than the height of the original dwelling and the expansion is not located in a wetland or the 100-year floodplain.

(iii) All of the expansion is in compliance with the minimum building setback standard, the expansion is not more than a 100% increase in the enclosed ground floor area of the dwelling cumulative from the date of nonconformance and the expansion is not located in a wetland or the 100-year floodplain.

(c) Any legal nonconforming structure, other than a dam, destroyed by any means except willful destruction by the property owner or his or her agent, to an extent that is more than 50% of its current appraised value, restoration of the structure shall be treated as a variance. The zoning review board or zoning administrator shall appoint a qualified individual to determine whether the structure has been destroyed to an extent that is more than 50% of its current appraised value. Restoration of the structure may be permitted by the zoning administrator, as a minor variance if all of the following conditions exist:

(i) The structure is not located within a floodplain or wetland.

(ii) The presence of the nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river.

(iii) The restored structure has the identical exterior dimensions, configuration, and maximum height of the destroyed structure.

(iv) Application for permit to restore a damaged structure is made within 12 months of the date of damage. An extension may be granted if the property is held in probate, an insurance settlement related to the damage is in dispute, or a criminal investigation related to the damage is in progress.

(v) A structure restored under the provisions of this rule shall be considered a non-conforming structure.

(vi) If any of the provisions of this rule cannot be met, restoration of a destroyed nonconforming structure shall require a variance as provided in R 281.60.

(d) If a legal nonconforming structure has deteriorated or is willfully destroyed by the property owner or owner's agent to an extent that restoration costs are more than 50% of its current appraised value, the property owner shall meet all development standards in these rules to the greatest extent possible when constructing any replacement structure and shall require a variance as provided in R 281.60. The zoning review board or zoning administrator shall appoint a qualified individual to determine whether the structure has been destroyed to an extent that is more than 50% of its current appraised value.

(e) If a variance is granted for a new single-family dwelling or short-term rental facility to replace a single-family dwelling or short-term rental facility that has been destroyed to an extent that is more than 50% of its current appraised value, a variance to construct a larger replacement structure shall be considered to be the same as a variance to expand the original structure for the purposes of determining maximum expansion of the original nonconforming structure.

(f) A variance shall not be granted for a new nonconforming structure to replace a destroyed nonconforming structure that would result in the new structure being more nonconforming than the destroyed structure, such as moving the structure closer to the ordinary high-water mark or increasing the height above the maximum height standard.

(g) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure on the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules. Moving a legal nonconforming structure requires a zoning permit and may require a variance.

(h) Reconstruction of a dam that is breached or destroyed by more than 50% of its replacement costs requires a land use variance. If a variance is approved, reconstruction of the dam shall be subject to all of the following provisions:

(i) Reconstruction of a dam shall comply with applicable regulations and standards in effect at the time of application for replacement.

(ii) Application for reconstruction of a dam shall be received within 1 year of destruction.

(iii) A reconstructed dam shall be built at the same location as the original dam and with a height not greater than the original dam height.

(iv) A bottom discharge and fish passage facility shall be provided for a reconstructed dam where appropriate.

R 281.60 ~~Enforcement~~ Variance and variance hearings.

Rule 10. (1) ~~Buildings erected, razed, altered, moved, or converted or any use of land or premises in violation of these rules are declared to be a nuisance.~~ A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or, by the zoning administrator as provided in these rules, to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after evidence establishes that a practical difficulty exists in complying with these rules. A variance shall be granted only when it is consistent with the general purposes and intent of these rules. Work authorized by the variance shall not commence until a permit is issued by the zoning administrator.

(2) ~~Each alleged violation shall be inspected by the zoning administrator who shall order the applicant in writing to correct all conditions found to be in violation of these rules.~~ The zoning review board or zoning administrator shall consider the following factors to determine if a practical difficulty exists in order to comply with these rules as specified in subrule (1) of this rule:

(a) A condition exists on the property that prevents the development standards from being met.

(b) The practical difficulty can be overcome by some reasonable method other than a variance.

(c) If the practical difficulty cannot be overcome by some reasonable method other than a variance, the variance shall meet the standards to the greatest extent possible.

(d) The variance will cause a substantial change in the character of the area.

(e) In view of the manner in which the practical difficulty arose, the interests of justice will be served by allowing the variance.

(f) The practical difficulty is due to circumstances which are unique to the subject property and not self created.

(g) The variance shall not result in an adverse effect on the environment.

~~(3) Violations of these rules shall be resolved by the appropriate circuit court in accordance with section 13 of Act No. 231 of the Public Acts of 1970, being S 281.773 of the Michigan Compiled Laws.~~ **The public hearing and review of a variance request by the zoning review board may be waived for a minor dimensional variance for a principal use. Such a variance application shall be processed by the zoning administrator, who shall consider the factors of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. A minor variance is defined as a reduction in setback for a principal use on any lawful lot that is not more than 25% of the normal dimensional requirements, a certain variance to expand a legal nonconforming dwelling or restore a destroyed legal nonconforming structure as described in R 281.59 and a setback variance for a single-family dwelling and short-term rental facility, as described in R 281.57.**

(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a land use variance upon a finding of unnecessary hardship, which may be found upon evidence being submitted that all of the following factors exist:

(a) The property cannot be used as zoned.

(b) The unnecessary hardship results from the application of these rules to the subject property.

(c) The unnecessary hardship is suffered by the subject property only and not shared by other property owners.

(d) The unnecessary hardship is not self created.

(5) Upon determining that an unnecessary hardship for a land use variance exists, the zoning review board shall determine that the proposed use meets all of the following:

(a) The proposed use shall be in accordance with the natural river plan.

(b) The proposed use will be designed, constructed, operated, and maintained consistent with the existing or intended character of the natural river district and the proposed use will not change the character of the natural river district.

(c) The proposed use will not involve activities, processes, materials, equipment, and conditions of operation that may be detrimental to any person, property, or the environmental quality of the natural river district, such as excessive noise, smoke, fumes, glare, odors, or outdoor storage of materials.

(d) The proposed use will be consistent with the intent and purpose of these rules.

(e) The proposed use or a structure to be used will not cause an overcrowding of the land or an undue concentration of population that may result in degradation to the natural river district.

(f) The proposed use lot area is sufficient, appropriate, and adequate for the proposed use and the reasonable anticipated operation and expansion thereof.

(6) The economic return factor shall be considered only if the applicant has been deprived of all beneficial use of subject property under existing zoning. In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may

be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (5) of this rule.

(7) Upon receipt of a variance application, the zoning review board shall conduct a public hearing on the variance application, except in the case of a minor variance application. The application, public hearing, and notice procedure shall follow the procedures in R 281.55. The zoning review board shall record all its proceedings, which shall include minutes of meetings, findings, and actions taken, including the final order. Reasons for the decision shall be in writing. The zoning review board shall record the vote of each member on each question. The zoning review board shall record if a member is absent or fails to vote. All records shall be open for public inspection. The concurring vote of at least a majority of the eligible voting members of the zoning review board is required to grant a dimensional variance. The concurring vote of at least a two-thirds majority of the eligible voting members of the zoning review board is required to grant a land use. If the required concurring vote for approval of a variance is not achieved, the variance is denied.

(8) A variance shall create a nonconforming land use, lot, or structure that is subject to R 281.59.

(9) The zoning review board or the zoning administrator may impose permit conditions, in writing, before granting a variance. The zoning permit issued for the variance is not valid until the applicant accepts the conditions in writing.

(10) An application for a variance denied by the zoning review board or zoning administrator shall not be resubmitted for consideration unless significantly different in scope or new and significant facts and conditions exist from the previously denied application.

R 281.61 ~~Changes; amendments; supplements~~ **Zoning administrator; zoning review board; appointment; duties.**

Rule 11. (1) ~~Changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner may be granted where implementation of such changes does not contravene the purposes of these rules as specified in R 281.52.~~ **The zoning administrator shall do all of the following:**

(a) **Provide necessary forms and applications and receive and process forms and applications.**

(b) **Issue a certificate of zoning compliance.**

(c) **Conduct site inspection to ensure compliance with these rules.**

(d) **Pursue resolution of a violation of these rules.**

(e) **Issue any authorized permit and certificate of zoning compliance.**

(f) **Identify and record information relative to any nonconformity.**

(g) **Maintain files of applications, permits, and other relevant documents.**

(h) **Schedule meetings and hearings for, and provide assistance to, the zoning review board.**

(i) **Act upon a minor variance as permitted by R 281.60.**

(j) **Act upon a request for expansion or reconstruction of a non-conforming structure as permitted by R 281.59.**

(2) ~~A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held in accordance with and subject to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as prescribed in~~

~~subrules (2) to (10) of R 281.58.~~ **In establishing the zoning review board, the department shall cooperate with and seek the advice of all of the following affected entities:**

- (a) Townships and counties.**
- (b) Conservation districts.**
- (c) Property owners' associations.**
- (d) Other interested local organizations and citizens.**

(3) The department shall request that each affected township appoint to the zoning review board 1 member and 1 alternate member to represent township interests on matters within its jurisdiction.

(4) The department shall request that each affected county appoint to the zoning review board 2 members, 1 of which shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field, and 2 alternate members, to represent its interests on matters within its jurisdiction.

(5) The department shall request that each affected conservation district appoint to the zoning review board 1 member and 1 alternate member to represent its interests on matters within its jurisdiction.

(6) County, township, and conservation district representatives appointed to the zoning review board shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or conservation districts do not appoint a member to the zoning review board within 60 days from the written request by the department, the department may appoint a member.

(7) The department shall appoint 1 department representative and 1 alternate who shall vote on all matters before the zoning review board.

(8) The department shall appoint 2 citizen representatives and 1 alternate who shall vote on all matters before the zoning review board.

(9) A member appointed as an alternate may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reason of conflict of interest. An alternate member shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.

(10) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.

(11) The zoning review board shall do all of the following:

- (a) Adopt rules of procedure that govern the transaction of its business.**
- (b) Act upon requests for special use permits.**
- (c) Act upon certain dimensional and land use variances pursuant to R 281.60.**
- (d) Act upon requests for expansion or reconstruction of non-conforming structures as permitted by R 281.59.**
- (e) Interpret the official zoning map pursuant to R 281.63.**

R 281.62 Boundaries and permitted use; precedence of local zoning ordinance over rules; local government reporting.

Rule 12. (1) The department may make amendments and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following an administrative hearing held pursuant to the administrative procedures act, 1969 PA 306,

MCL 24.271 to 24.287, if implementation of the amendment, or supplement does not contravene the purposes of these rules pursuant to R 281.52.

(2) A copy of any amendment or supplement to boundary shall be sent to all of the following affected entities:

- (a) County register of deeds.**
- (b) Township and county clerks.**
- (c) Local building code department.**
- (d) Local soil erosion and sedimentation control enforcement agency.**
- (e) Conservation district.**
- (f) County drain commissioner.**
- (g) Zoning review board members.**

(3) A local zoning ordinance that meets all of the requirements of natural rivers, part 305, 1994 PA 451, MCL 324.30501 to 324. and the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to , may take precedence over these rules. If a local zoning ordinance does not meet all of the requirements of natural rivers, part 305, 1994 PA 451, MCL 324.30501 to 324.or if the local ordinance becomes inapplicable to the land area encompassed by the natural river district through court action or for any other reason, these rules apply. Upon request, the department shall assist a local unit of government in developing an ordinance that meets the requirements of natural rivers part 305, 1994 PA 451, MCL 324.30501 to 324. . The department shall determine if a local ordinance meets all of the requirements of natural rivers, part 305, 1994 PA 451, MCL 324.30501 to 324. and shall notify the local unit of government of that determination in writing. If the department withdraws approval of a local zoning ordinance, these rules shall apply.

(4) A local unit of government administering a local zoning ordinance approved by the department shall comply with the following:

(a) A copy of all special use and variance applications received by the local unit of government shall be provided to the state natural rivers zoning administrator not less than 15 days before the application will be considered by the zoning board of appeals or planning commission. A copy of the local zoning administrator's decision for a minor variance application, with permit and approved site plan, if applicable, shall be sent to the state natural rivers zoning administrator.

(b) Each local unit of government shall provide an annual report, in writing, to the state natural rivers zoning administrator by March 1 of each year for the preceding year natural rivers zoning activity. The annual report shall include, at minimum, all of the following information:

(i) Total number of natural river district land use/zoning permit applications submitted to the local unit of government during the calendar year.

(ii) Total number of natural river district variance applications received during the calendar year.

(iii) Total number of natural river district special use applications received during the calendar year.

(iv) Summary of all decisions made by the zoning board of appeals or planning commission on applications for projects in the natural rivers district during the calendar year.

(v) Summary of all outstanding violations of natural rivers standards and the actions taken by the local unit of government to gain compliance at the site during the calendar year.

(5) If the local zoning ordinance no longer meets the requirements of natural rivers part 305, 1994 PA 451, MCL 324.30501 to 324.30504 or the department determines the local unit of government has failed to administer the natural river ordinance or has failed to meet the requirements of subrule (4), then these rules apply and the department shall notify the local unit of government of that determination in writing.

R 281.63 Interpretation of boundaries; filing of zoning map.

Rule 13. (1) If uncertainty exists with respect to the boundaries of the district as shown on the zoning map and as described in these rules, the zoning administrator shall interpret the district boundaries.

(2) If a district boundary of a designated stream begins or ends at a culvert, bridge, dam or other structure, the district boundary shall include the structure and any right-of-way associated with the structure.

(3) The department shall record a certified copy of the natural river zoning map with all of the following affected entities:

- (a) State tax commission.**
- (b) Local tax assessing officer.**
- (c) Township and county clerks.**
- (d) County drain commissioner.**
- (e) Local building code department.**

R 281.64 Compliance; violation; remedy.

Rule 14. (1) A structure or land shall not be used or occupied, and a structure or part thereof shall not be erected, constructed, reconstructed, moved, or altered, unless the structure or land is in compliance with these rules. The department shall not waive any right or remedy against any person who violates these rules if the violation was committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to these rules is invalid from the date of the authorization.

(2) A permit or variance shall not be issued by the department for any structure or use on a parcel of land upon which an unresolved violation of any of these rules exist.

(3) In addition to any other remedy, the department may initiate appropriate action or proceeding to prevent, correct, or abate any rule violation or any threatened violation.

R 281.65 Appeal.

Rule 15. An aggrieved party may appeal the decision of the zoning administrator or zoning review board and shall be granted an administrative hearing if a petition is filed with the department within 60 days after notice of decision. The administrative hearing shall be conducted pursuant to the administrative procedures act, 1969 PA 306, MCL 24.271 to 24.287.

R 281.66 Severability.

Rule 16. If the provisions of these rules are declared by a court to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and the provisions of these rules shall be severable.

R 281.70 Jordan river system boundaries, effective date.

Rule 20. (1) The boundaries of the Jordan river natural river district shall be as described in these rules and as depicted on the certified Jordan river natural river zoning map with an effective date of September 25, 1974. The Jordan river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the Jordan river from the west line of section 22, T31N, R5W to Roger's bridge in section 35, T32N, R7W.

(b) Bennett creek from the outfall of Mud lake in section 15, T31N, R7W to its confluence with the Jordan river.

(c) Todd creek from Carson road from the west line of section 31, T32N, R6W to its confluence with the Jordan river.

(d) Bartholemew creek from its source in section 14, T31N, R7W to its confluence with the Jordan river.

(e) Severance creek from its source in section 5, T31N, R6W to its confluence with the Jordan river.

(f) Webster creek from its source in section 8, T31N, R6W to its confluence with the Jordan river.

(g) Lilak creek from its source in section 13, T31N, R7W to its confluence with the Jordan river.

(h) Martin creek from its source in section 19, T31N, R6W to its confluence with the Jordan river.

(i) Balster-Mill creek from its source in section 15, T31N, R6W to its confluence with the Jordan river.

(j) Unnamed stream from its source in section 21, T31N, R6W to its confluence with Balster-Mill creek.

(k) Sutton creek from the Old state road crossing in section 22, T31N, R6W to its confluence with the Jordan river.

(l) Cokirs creek from its source in section 24, T31N, R7W to its confluence with the Jordan river.

(m) Scotts creek from its sources in section 28, T31N, R6W to its confluence with the Jordan river.

(n) Tutstone creek from its source in section 33, T31N, R6W to its confluence with the Jordan river.

(o) Unnamed stream from its source in section 33, T31N, R6W to its confluence with the Jordan river.

(p) Green river from its source in section 27, T30N, R6W to its confluence with the Jordan river.

(q) Stevens creek from its source in section 16, T30N, R6W to its confluence with the Jordan river.

(r) Unnamed stream from its source in section 35, T31N, R6W to its confluence with the Jordan river.

(s) Landslide creek from its source in section 14, T30N, R6W to its confluence with the Jordan river.

(t) Cascade creek from Alba road in section 22 T30N, R6W to its confluence with Landslide creek.

(u) Section 13 creek from its source in section 13, T30N, R6W to its confluence with the Jordan river.

(v) Six Tile creek from its source in section 6, T30N, R5W to its confluence with the

Jordan river.

(w) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (v) of this subrule.

(x) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (w) of this subrule.

R 281.71 Jordan River system principal use; natural vegetation strip.

Rule 21. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility, including accessory buildings and appurtenances, with the following provisions:

(i) The minimum building setback shall be not less than 200 feet from the ordinary high-water mark on the mainstream and not less than 100 feet on all designated tributaries, except as described in R 281.57.

(ii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iii) The natural contour of the face and crest of a bluff shall not be altered.

(iv) The land between the crest of a bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field shall not be located less than 200 feet from the ordinary high-water mark on the mainstream and 100 feet from the ordinary high-water mark on all designated tributaries and not less than 100 feet from any surface or subsurface drain that discharges into the Jordan river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall not be located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Jordan river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are prohibited unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after September 25, 1974, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 150 feet of river frontage, unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river and is at least 150 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on September 25, 1974, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after September 25, 1974, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to the provisions of R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to Rule 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Jordan river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Jordan river mainstream. A restrictive cutting belt that includes the river and all lands within 25 feet of the ordinary high-water mark shall be maintained on each side of all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

R 281.80 Betsie river system boundaries.

Rule 30. The boundaries of the Betsie river natural river district shall be as described in these rules and as depicted on the certified Betsie river natural river zoning map with an effective date of June 11, 1977. The Betsie river natural river zoning district comprises an area described as follows:

(a) The Betsie river from Grass lake dam in section 2, T25N, R13W to its mouth at Betsie lake in section 35, T26N, R16W.

(b) The Little Betsie river from its source in section 24, T25N, R13W, in Benzie county to its confluence with the Betsie river.

(c) Dair creek from its source in section 15, T25N, R14W, in Benzie county to its confluence with the Betsie river.

(d) All lakes, ponds, impoundments, or other surface water bodies not traditionally considered rivers, streams, or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (c) of this rule.

(e) The lands lying within 400 feet of the river's edge described in subdivisions (a) to (d) of this rule.

R 281.81 Betsie river system principal uses; natural vegetation strip.

Rule 51. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with the following provisions:

(i) The minimum building setback shall be not less than 200 feet from the ordinary high-water mark on the mainstream and 100 feet on the Little Betsie river and Dair creek, except as described in R 281.57.

(ii) On the mainstream, the setback may be decreased 5 feet for every 1 foot of rise in bank height above 5 feet above the ordinary high-water mark, to a minimum of 150 feet from the ordinary high-water mark.

(iii) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iv) Building shall not take place on land that is subject to flooding or in any wetland area.

(v) The natural contour of the face and crest of the bluff shall not be altered.

(vi) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to the provisions of R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all of the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 100 feet from any surface or subsurface drain that discharges into the Betsie river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Betsie river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after June 11, 1977, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 200 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks under this rule.

(v) A lot that exists on June 11, 1977, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Lots that are created after June 11, 1977, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Betsie river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the Betsie river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

R 281.90 White river system boundaries.

Rule 40. The boundaries of the White river natural river district shall be as described in these rules and as depicted on the certified White river natural river zoning map with an

effective date of May 5, 1979. The White river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the White river from 8-mile road, in section 21, T15N, R12W, downstream to US-31 in section 22, T12N, R17W, excluding the following: from the north city limit of White Cloud down to old M-20 west of the city, from the east city limit of Hesperia down to the west city limit and those portions within the city limits of Whitehall and Montague.

(b) Mullen creek from 6-Mile road in section 34, T15N, R12W to its confluence with the White river.

(c) Five Mile creek from Pine avenue in section 18, T14N, R11W to its confluence with the White river.

(d) Flinton creek from Pine avenue in section 31, T14N, R11W to its confluence with the White river.

(e) Wrights creek from Comstock road in section 33, T14N, R14W to its confluence with the White river.

(f) Mena creek from Minnie lake dam in section 5, T14N, R13W to its confluence with the White river.

(g) Martin creek from Warner avenue in section 2, T14N, R13W, to its confluence with the White river.

(h) East Branch Heald creek from Croswell road in section 32, T15N, R13W to its confluence with Martin creek.

(i) Braton creek from Wilkie road in section 24, T13N, R15W to its confluence with the White river.

(j) Cushman creek from 192nd avenue in section 26, T13N, R15W to its confluence with the White river.

(k) Skeels creek from 192nd avenue (Holton Duck Lake road) in section 11 T12N, R15W to its confluence with the White river.

(l) North Branch White river from 198th avenue in section 11, T14N, R15W to its confluence with the White river.

(m) Robinson creek from Woodrow road in section 12, T14N, R17W to its confluence with the North Branch.

(n) Swinton and Osborn (Cobmoosa) creek from Filmore road in section 26, T15N, R16W to its confluence with the North Branch.

(o) Newman creek from 132nd avenue in section 4, T13N, R16W to its confluence with the North Branch.

(p) Knutson creek from Garfield road in section 32, T14N, R15W downstream to its confluence with the North Branch.

(q) Sand creek from outlet of Dressler lake in section 1, T13N, R17W to its confluence with the White river.

(r) Carlton creek from Arthur road in section 4, T13N, R17W to its confluence with the White river.

(s) Mud creek from outlet of Heitman lake in section 24, T13N, R17W to its confluence with Carlton creek.

(t) Carleton (Landford) creek from Walsh road in section 10, T12N, R17W to its confluence with the White river.

(u) Silver creek from Silver creek road in section 14, T12N, R17W to its confluence with the White river.

(v) Cleveland creek from Russell road in section 16 T12N, 16W to its confluence with the White river.

(w) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (v) of this rule

(x) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (w) of this rule.

R 281.91 White river system principal uses; natural vegetation strip.

Rule 41. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream from 8-mile road in the northwest corner of section 28, T15N, R12W to Lutes bridge (Baldwin road), T14N, R13W and from Podunk bridge between sections 9 and 10, T13N, R15W to US 31 in Muskegon county except as described in R 281.57.

(ii) The setback may be decreased 5 feet for every 1 foot of rise in bank height above 7 feet above the ordinary high-water mark, to a minimum of 100 feet from the ordinary high-water mark.

(iii) The minimum building setback shall be not less than 100 feet from the ordinary high-water mark on the mainstream from Lutes bridge (Baldwin road) to Podunk bridge and on all designated tributaries.

(iv) The setback may be decreased 5 feet for every 1 foot of rise in bank height above 7 feet above the ordinary high-water mark, to a minimum of 75 feet from the ordinary high-water mark.

(v) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(vi) Building shall not take place on land that is subject to flooding or in any wetland area.

(vii) The natural contour of the face and crest of the bluff shall not be altered.

(viii) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the White river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the White river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after May 5, 1979, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 200 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on May 5, 1979, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after May 5, 1979, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to the provisions of R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the White river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the White river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

R 281.100 Huron River system boundaries.

Rule 50. The boundaries of the Huron river natural river district shall be as described in these rules and as depicted on the certified Huron river natural river zoning map with an effective date of June 2, 1980. The Huron river natural river zoning district comprises an area that is described as follows:

(a) The mainstream of the Huron river from Kent lake dam in section 1, T1N, R6E to the west line of section 32, T1N, R5E excluding Strawberry, Gallagher, Loon, which is also known as Long or Little Gallagher, and the 2 Whitewood lakes; and from John Flook dam in section 1, T1S, R4E to the Scio-Ann Arbor township line in Washtenaw county, excluding the incorporated village of Dexter.

(b) Davis creek, which is also called the Southeast Branch of the Huron river, Livingston county, Green oak township, from the outfall of Sandy Bottom lake in section 27, T1N, R6E to its confluence with the Huron river.

(c) Arms creek, from the confluence of the 2 Branches in section 10, T1S, R5E to its confluence with the Huron river.

(d) Mill creek, from Parker road in section 13, T2S, R4E to the incorporated village limits of Dexter.

(e) Unless specifically exempted in this subdivision, all lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (d) of this rule.

(f) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (e) of this rule.

R 281.101 Definitions Huron River system principal uses; natural vegetation strip.

~~Rule 1. As used in these rules:~~

~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.~~

~~(b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:~~

~~(i) Garages.~~

~~(ii) Residential storage sheds.~~

~~(iii) Barns and other agricultural storage and livestock structures.~~

~~(iv) Pump houses.~~

~~(v) Private access roads.~~

~~(vi) Electrical service lines.~~

~~(c) "Bluff" means a bank that rises at a slope of 33 degrees or greater from within 10 feet of the river's edge. The crest of the bluff is the first riverward facing area at least 100 feet wide (approximately parallel to the river) that breaks to a slope of less than 18 degrees for a distance away from the river of at least 25 feet.~~

~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of 1972 PA 230, MCL 125.1501 and known as the state construction code act of 1972.~~

~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as required by the provisions of 1972 PA 230, MCL 125.1501.~~

~~(f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and~~

structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.

~~(g) "Commission" means the natural resources commission.~~

~~(h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~

~~(i) "Director" means the director of the department of natural resources.~~

~~(j) "Enclosed ground floor living area" means the area of the ground covered by a dwelling, including enclosed porches and attached garages, but not including open porches, decks, or patios.~~

~~(k) "Family" means either of the following:~~

~~(i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2 additional unrelated persons, are domiciled together as a single domestic housekeeping unit in a dwelling unit.~~

~~(ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing non-transient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.~~

~~(l) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, serve as an aid to the infiltration of surface runoff, and provide cover to shade the water.~~

~~The vegetation need not be so dense as to completely block the river view.~~

~~"Filtered view of the river" means no mowing or removal of trees, shrubs, or other vegetation.~~

~~(m) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (t) of this rule.~~

~~(n) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge a 100-year flood.~~

~~(o) "Front" means that segment of a lot or parcel closest to or abutting the river's edge of the main stream or tributary.~~

~~(p) "Front yard" means setback as provided for in R 281.107.~~

~~(q) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home by residents of the dwelling as a use which is clearly incidental and secondary to the use of the home as a dwelling place.~~

~~(r) "Home based occupation" means a gainful occupation where business is conducted off-site but equipment such as logging trucks or well drilling rigs are stored at the home site.~~

~~(s) "Impervious surface" means a surface, including paved and unpaved driveways, decks, rooftops, roads, patios, swimming pools, and parking lots, that does not allow stormwater to infiltrate into the ground.~~

~~(t) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.~~

- ~~(u) "Lot" means a continuous area or acreage of land that can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~
- ~~(v) "Lot area" means the area inside the lot lines.~~
- ~~(w) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.~~
- ~~(x) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.~~
- ~~(y) "Lot, vacant" means a lot that does not contain a single family dwelling.~~
- ~~(z) "Natural river district" means the Pine river natural river district as described in R 281.105.~~
- ~~(aa) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~
- ~~(bb) "Rear yard" means that yard opposite the front yard.~~
- ~~(cc) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.~~
- ~~(dd) "River's edge" means the ordinary high watermark as used in Part 301 of 1994 PA 451, and as defined in subdivision (aa) of this rule.~~
- ~~(ee) "Setback" means the required horizontal distance between any portion of structure and the river's edge, measured at the structure's closest point to the river's edge.~~
- ~~(ff) "Single family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains kitchen and bathroom facilities.~~
- ~~(gg) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Part 91 of 1994 PA 451, MCL 282.101.~~
- ~~(hh) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas greater than 24 inches in diameter and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are on site fewer than 30 days per year and if they are located landward of the native vegetation buffer or if the facilities are located on a campsite within a campground that is licensed pursuant to 1978 PA 368 MCL 333.1101, if both the individual campsite and the campground were established before the effective date of these rules.~~
- ~~(ii) "Wetland" means land characterized by the presence of hydric soils or water at a frequency and duration sufficient to support wetland vegetation or aquatic life as defined in Part 303 of 1994 PA 451, MCL 282.101.~~
- ~~(jj) "Zoning administrator" means the administrator of these rules who is appointed by the director.~~
- ~~(kk) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with these rules.~~
- ~~(ll) "Zoning review board" means a group of 7 people which is appointed by the director to act upon requests as provided for by these rules.~~

Rule 51. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 125 feet from the ordinary high-water mark on the mainstream except as described in R 281.57.

(ii) The setback may be decreased 10 feet for every 10 foot of rise in bank height to a minimum of 75 feet from the ordinary high-water mark.

(iii) The minimum building setback on all designated tributaries shall be not less than 50 feet from the ordinary high-water mark.

(iv) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(v) Building shall not take place on land that is subject to flooding or in any wetland area.

(vi) The natural contour of the face and crest of the bluff shall not be altered.

(vii) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 125 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Huron river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall not be located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Huron river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after June 2, 1980, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 150 feet of river frontage, unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 150 feet wide at the minimum building setback line.

(iii) Contain at least 50,000 square feet of area within the natural river district. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on June 2, 1980, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after June 2, 1980, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities subject to R 281.57.

(2) Within the Huron river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the Huron river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

~~R 281.102 Purpose; intent; scope.~~

~~Rule 2. (1) The director may, on his or her own motion, implement the intent of Natural Rivers Part 305 of 1994 PA 451, and in the absence of local zoning to protect the Pine river, a designated natural river, promulgates these rules for the following purposes:~~

~~(a) To promote the public health, safety, and general welfare; to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district; and to preserve the values of the natural river district for the benefit of present and future generations.~~

~~(b) To protect the free-flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Pine river and adjoining land.~~

~~(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~

- ~~(d) To provide for uses that complement the natural characteristics of the natural river system.~~
- ~~(e) To protect individuals from investing funds in structures that are proposed for location on lands that are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~
- ~~(f) To achieve the goals and objectives of the Pine River natural river plan.~~
- ~~(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.~~
- ~~(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Natural Rivers Part 305 of 1994 PA 451, and the rules promulgated thereunder, the provisions of Natural Rivers Part 305 of 1994 PA 451 and the rules promulgated thereunder shall apply.~~

~~R 281.103 Construction of language; severability.~~

- ~~Rule 3. (1) All of the following rules of construction apply to these rules:~~
- ~~(a) A "building" or "structure" includes any part thereof.~~
- ~~(b) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."~~
- ~~(c) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.~~
- ~~(d) The terms "lot" and "parcel" have the same meaning.~~
- ~~(e) Terms not defined in these rules shall have the meanings customarily assigned to them.~~
- ~~(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.~~

~~R 281.104 Lot size and area; subdivision of land; home and home-based occupations; native vegetation buffer; signs; docks; height of structures; river access stairways; dams; impervious surfaces.~~

- ~~Rule 4. (1) Unless otherwise provided in these rules, a lot created after the effective date of these rules shall meet all of the following standards on at least 1 side of the stream that is accessible by a public road or legal easement:~~
- ~~(a) Have at least 200 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or the parent parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and be at least 200 feet wide at the minimum building setback line.~~
- ~~(b) Contain at least 1/2 acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.~~
- ~~(c) Contain at least 80,000 square feet of area within the Natural River District (any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area). If the parent parcel does not have river frontage, and the front line of any newly created parcel is greater than 150 feet from the river's edge at all points, this rule does not apply, and the minimum parcel width will be measured at the front lot line.~~

~~(d) Have sufficient depth to accommodate the required building setbacks pursuant to the standards in R 281.107.~~

~~(2) A lot that exists on the effective date of this rule shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.~~

~~(3) Proposed lots which have preliminary plat approval pursuant to 1967 PA 288, MCL 560.101 but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements in R 281.109 and R 281.110.~~

~~(4) Lots of record which are created before the effective date of these rules and which do not possess sufficient land area or lot width may be used for the purposes described in these rules, subject to the requirements provided for in R 281.109 and R 281.110.~~

~~(5) Home occupations and home-based occupations shall conform to all of the following requirements:~~

~~(a) The use of the dwelling unit, or related structure, for a home occupation or home-based occupation shall be clearly incidental and subordinate to its use for residential purposes.~~

~~(b) Equipment or a process shall not be used in a home occupation or home-based occupation if it creates noise, vibration, fumes, odors, or electrical interference that is detectable to the normal senses off the premises.~~

~~(6) Within the natural river district, a native vegetation buffer that includes the river and all lands within 100 feet of the ordinary high watermark shall be maintained on each side of the Pine river mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river. A restrictive cutting belt that includes tributaries and all lands within 50 feet of their ordinary high watermarks shall be maintained on each side of all designated tributaries.~~

Trees and shrubs may be pruned over not more than a 50-foot width for a filtered view of the river, but clear cutting in the native vegetation buffer is prohibited. The native vegetation buffer is also subject to all of the following provisions:

~~(a) Unsafe trees and noxious plants and shrubs, such as poison ivy and poison sumac, may be removed.~~

~~(b) The selected removal or trimming of trees for forest management practices or disease and insect control, and clearing of vegetation to the minimum width required for public utility primary electric distribution lines and service lines for permitted uses is permitted upon approval of the zoning administrator in consultation with local Conservation District staff, if the activity is in keeping with the goals and objectives of the Natural River Plan.~~

~~(c) Camping other than low impact tent camping is not permitted in the native vegetation buffer.~~

~~(d) Mowing is prohibited in the native vegetation buffer except in areas that had been maintained in a mowed condition prior to adoption of these rules or to establish a footpath to the river not to exceed 4 feet wide.~~

~~(e) In the Pine river system upstream of the confluence of the North Branch Pine river and the East Branch Pine river and on all tributaries, vegetation in the stream channel may not be disturbed except to alleviate flooding that threatens a dwelling. In the Pine River mainstream downstream of the confluence of the North Branch Pine river and the East Branch Pine river vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel may not be disturbed.~~

- ~~(f) A boardwalk constructed in conjunction with the footpath described in subdivision (d) of this subrule is permitted upon approval of the zoning administrator if it is placed only in areas that are generally too wet to be traversed without significant disturbance of the soils, the boardwalk and supports are constructed of wood, the boardwalk is not more than 3 feet wide and does not include railings, and the top of the boardwalk is not more than 12 inches above grade.~~
- ~~(g) All islands in all stream segments are subject to the native vegetation buffer standards.~~
- ~~(h) A wider native vegetation buffer may be required for certain commercial uses.~~
- ~~(7) Signs for identification, direction, resource information, regulation of use and those related to permitted uses are allowed. Signs for the sale of products or services are prohibited, unless related to a permitted use, located on the site of the permitted use, not located in the native vegetation buffer and not visible from the river. Illuminated signs are prohibited. Signs may be not more than 2 square feet in area. Exceptions include 1 real estate sign not more than 4 square feet outside the native vegetation buffer, and public agencies' signs not larger than 10 square feet, of rustic design and not attached to vegetation. Some public agency signs may need to be larger to warn of impending danger or for interpretative or historic reasons.~~
- ~~(8) Private boat docks shall be in compliance with all of the following requirements:~~
 - ~~(a) Docks shall not be more than 48 square feet in area, with not more than 4 feet of the dock extending over the edge of the river.~~
 - ~~(b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.~~
 - ~~(c) Unless otherwise provided for in these rules, only 1 dock shall be constructed per lot.~~
 - ~~(9) Unless otherwise provided for in these rules, a structure shall not be more than 2 1/2 stories tall, not including a basement, and not more than 35 feet in height measured from the original surface elevation.~~
 - ~~(10) Private river access stairways are permitted upon approval of the zoning administrator if in compliance with all of the following requirements:~~
 - ~~(a) There is no other safe, feasible access to the river without a stairway.~~
 - ~~(b) The stairway is low profile, not more than 4 feet wide and constructed without stairs being recessed into the ground surface unless site and soil conditions dictate that a recessed stairway is more appropriate.~~
 - ~~(c) There are no landings associated with the stairway unless required by building codes, in which case the landings shall be of the minimum number and size required by building codes.~~
 - ~~(d) Not more than 1 handrail is associated with the stairway.~~
 - ~~(e) Only 1 river access stairway is permitted per parcel.~~
 - ~~(f) The stairway is constructed using natural materials and is located and maintained to blend with the natural surroundings.~~
 - ~~(11) Construction of new dams is prohibited. Reconstruction of a failed dam is permitted under any of the following conditions:~~
 - ~~(a) Reconstruction of a dam destroyed by a catastrophic event such as flood may be reconstructed.~~
 - ~~(b) Reconstruction of a dam that failed due to lack of maintenance or other negligence by the owner or operator is prohibited.~~
 - ~~(c) Reconstruction of a dam that failed due to a catastrophic event shall comply with construction standards in effect at the time of application for replacement.~~
 - ~~(d) Application for reconstruction shall be received within 1 year of destruction.~~
 - ~~(e) A reconstructed dam shall be rebuilt with a height not greater than the original dam height.~~
 - ~~(f) A bottom discharge and fish passage facilities shall be provided for a reconstructed dam where appropriate.~~

- ~~(g) A request for replacement of a dam destroyed by a catastrophic event shall be handled as a variance request for reconstruction of a destroyed, non-conforming structure.~~
- ~~(12) The maximum percentage of impervious surface permitted on a lot is as follows:~~
- ~~(a) For lots with less than 10,000 square feet of area, not more than 35% of the land surface may be covered by impervious surfaces.~~
- ~~(b) For lots with between 10,000 square feet and 40,000 square feet of area, not more than 25% of the land surface may be covered by impervious surfaces.~~
- ~~(c) For lots with between 40,001 square feet and 80,000 square feet of area, not more than 20% of the land surface may be covered by impervious surfaces.~~
- ~~(d) For lots greater than 80,000 square feet of area, not more than 10% of the land surface may be covered by impervious surfaces.~~

~~R-281.105 Boundaries; interpretation of boundaries; filing of zoning map.~~

~~Rule 5. (1) The boundaries of the Pine river natural river district shall be as described in these rules and as depicted on the certified Pine river natural river zoning map. The Pine river natural river zoning district comprises an area that is described as follows:~~

- ~~(a) The Pine river mainstream, from the confluence of the North Branch Pine river and the East Branch Pine river in section 29 of Burdell Twp., T20N, R10W to M-55.~~
- ~~(b) The North Branch Pine river from its easternmost crossing of the north line of section 20 of Clam Lake Twp., T21N, R9W to its confluence with the East Branch of the Pine river. Lands adjacent to the North Branch from its confluence with Spalding Creek to its confluence with the East Branch are subject to mainstream development standards.~~
- ~~(c) Spalding Creek from 46 Road (the south line of section 16 of Cherry Grove Twp., T21N, R10W) to its confluence with the North Branch of the Pine river.~~
- ~~(d) Fairchild Creek from its source in section 24 of Henderson Twp., T21N, R11W to its confluence with the North Branch of the Pine river.~~
- ~~(e) Sixteen Creek from its source in section 2 of Burdell Twp., T20N, R10W to its confluence with the North Branch of the Pine river.~~
- ~~(f) An unnamed stream from the outfall of a dam in section 8 of Burdell Twp., T20N, R10W to its confluence with the Pine river.~~
- ~~(g) The East Branch of the Pine river from the outfall of a lake in section 1 of Burdell Twp., T20N, R10W to its confluence with the North Branch of the Pine river.~~
- ~~(h) The Rose Lake Outlet from its sources at the outfall of Rose Lake in section 3 of Rose Lake Township, T19N, R9W and the outfall of Emery Lake in section 34 of Sherman Twp., T20N, R9W, to its confluence with the East Branch of the Pine river.~~
- ~~(i) Edgett Creek from the west line of section 36 (190th Rd.) in Burdell Twp., T20N, R10W to its confluence with the Rose Lake outlet including both branches of the Diamond Lake outlet from their sources in section 26 of Burdell Twp. to the confluence with Edgett Creek.~~
- ~~(j) An unnamed stream from its source in section 20 of Sherman Twp., T20N, R9W to its confluence with the Rose Lake outlet.~~
- ~~(k) Sprague Creek from the outfall of a pond in the center of section 33 of Burdell Twp., T20N, R10W to its confluence with the Pine river.~~
- ~~(l) Beaver Creek from the north/south centerline of section 11 of LeRoy Twp., T19N, R10W to its confluence with the Pine river.~~
- ~~(m) Little Beaver Creek from the outlet of a large pond in the northeast 1/4 of section 19 of LeRoy Twp., T19N, R10W to its confluence with Beaver Creek.~~
- ~~(n) An unnamed stream from the outfall of the southernmost of two ponds in section 14 of Ellsworth Twp., T19N, R11W to its confluence with the Pine river.~~

- ~~(o) Coe Creek from the outfall of Lake Olga in section 1 of Dover Twp., T20N, R11W to its confluence with the Pine river.~~
- ~~(p) Dyer Creek from the outfall of a small pond in section 13 of Dover Twp., T20N, R11W to its confluence with Coe Creek.~~
- ~~(q) Sellars Creek from its source in section 21 of Dover Twp., T20N, R11W to its confluence with the Pine river.~~
- ~~(r) An unnamed stream from its source in section 20 of Dover Twp., T20N, R11W to its confluence with the Pine river.~~
- ~~(s) An unnamed stream from its source in section 19 of Dover Twp., T20N, R11W to its confluence with the Pine river.~~
- ~~(t) An unnamed stream from its source in section 24 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.~~
- ~~(u) Silver Creek from its source in section 15 of Dover Twp., T20N, R11W to its confluence with the Pine river, including all perennial tributaries from their sources to their confluence with Silver Creek.~~
- ~~(v) An unnamed stream from its source in section 13 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.~~
- ~~(w) An unnamed stream from its source in section 11 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.~~
- ~~(x) An unnamed stream from its source in section 7 of Dover Twp., T20N, R11W to its confluence with the Pine river.~~
- ~~(y) An unnamed stream from its source in section 1 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.~~
- ~~(z) Poplar Creek from its source in section 26 of Henderson Twp., T21N, R11W to its confluence with the Pine river.~~
- ~~(aa) Dowling Creek from its 2 sources in sections 21 and 28 of Henderson Twp., T21N, R11W to its confluence with Poplar Creek.~~
- ~~(bb) Hoxey Creek from its source in section 25 of South Branch Twp., T21N, R12W to its confluence with the Pine river.~~
- ~~(cc) An unnamed Creek from its sources in section 27 and 34 of South Branch Twp., T21N, R12W to its confluence with the Pine river.~~
- ~~(dd) Yates Creek from its source in section 22 of South Branch Twp., T21N, R12W to its confluence with the Pine river.~~
- ~~(ee) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (dd) of this subrule.~~
- ~~(ff) The lands lying within 400 feet of the river's edge that are enumerated in subdivisions (a) to (ee) of this subrule.~~
- ~~(2) If uncertainty exists with respect to the boundaries of the district as shown on the zoning map, then all of the following provisions shall apply:~~
 - ~~(a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.~~
 - ~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.~~
 - ~~(c) Boundaries that are indicated as approximately following city, village, township, or county boundaries lines shall be construed as following the city, village, township, or county boundary lines.~~

~~(d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.~~

~~(e) Boundaries that are indicated as following shorelines shall be construed to follow the shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines.~~

~~Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerline.~~

~~(f) Boundaries that are indicated as parallel to or extensions of features indicated in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.~~

~~(g) If physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, then the zoning review board shall interpret the district boundaries.~~

~~(h) If a portion or all of the district is indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, then the district boundaries extend to the center of any public right-of-way.~~

~~(3) Certified copies of the Pine river natural river zoning map shall be filed with all of the following entities:~~

~~(a) The state tax commission.~~

~~(b) Local tax assessing officers.~~

~~(c) Township and county clerks.~~

~~(d) County drain commissioners.~~

~~(e) Local building department.~~

~~(f) The natural rivers unit of the Michigan department of natural resources.~~

~~R 281.106 Zoning permits; site plans; certificates of zoning compliance.~~

~~Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.107. Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.~~

~~(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, may require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:~~

~~(a) A site plan drawn to scale, with the scale indicated.~~

~~(b) Property dimensions, including river frontage.~~

~~(c) Size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.~~

~~(d) Existing vegetation, including the location and type.~~

~~(e) Adjacent streets and highways.~~

~~(f) Parking areas.~~

~~(g) Cross section drawing showing height of buildings above water level and bluff heights.~~

- ~~(h) Entrances to public streets.~~
 - ~~(i) Description of the building design, including proposed construction materials.~~
 - ~~(j) Drainage facilities.~~
 - ~~(k) Location and description of the method to dispose of sanitary wastes.~~
 - ~~(l) Proposed landscaping.~~
 - ~~(m) Location of footpaths.~~
 - ~~(n) Signs proposed, including the size, location, and material.~~
 - ~~(o) North arrow.~~
 - ~~(p) Date of drawing.~~
 - ~~(q) Detailed site location map.~~
 - ~~(r) Any additional information required the zoning administrator or zoning review board to carry out the administrator's or board's duties. Examples of such information include the following:~~
 - ~~(i) Soil types.~~
 - ~~(ii) Topography.~~
 - ~~(iii) Building elevations.~~
 - ~~(iv) Site photographs.~~
 - ~~(v) Anticipated traffic volumes.~~
 - ~~(vi) Traffic circulation patterns.~~
 - ~~(vii) Other pertinent site information.~~
 - ~~(3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certifies compliance with these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is an accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator.~~
- ~~Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes or local zoning permits.~~

~~R 281.107 Land use and development standards.~~

- ~~Rule 7. (1) Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:~~
- ~~(a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:~~
 - ~~(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.~~
 - ~~(ii) Reforestation and other accepted forest management practices that do not involve permanent structures and that are landward of the native vegetation buffer.~~
 - ~~(iii) Agricultural activities, such as plowing, disking and planting of crops, including general and specialized farming such as Christmas tree farms, provided that all new activities occur landward of the native vegetation buffer and provided such uses will not significantly contribute to stream degradation. Construction of any residential and farm-related structures and appurtenances are classified as principal uses (see subrule (2) of this rule) and are subject to zoning permit requirements. New aquaculture facilities and concentrated animal feeding~~

operations, and expansion of existing aquaculture facilities and concentrated animal feeding operations, are not permitted within the Natural River District without a land use variance. Resumption of prior agricultural uses that were located within the native vegetation buffer but have been discontinued, for example, crop fields that are rotated, may resume if 1 of the following criteria is met:

- ~~(A) The cessation of use was within 10 years of resumption of use.~~
- ~~(B) The cessation of use was due to implementation of a management plan written prior to adoption of these rules.~~
- ~~(C) The cessation of use was the result of written agreements with a governmental agency or agencies entered into prior to adoption of these rules.~~
- ~~(D) The cessation of use was the result of written agreements with a governmental agency or agencies entered into after adoption of these rules or ordinances implementing this plan, where the term of cessation of use specified in the agreement is for 10 years or less.~~
- ~~(E) The cessation of use was required or imposed by a governmental agency or agencies.~~
- ~~(iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.~~
- ~~(v) The off-road operation of emergency and public utility maintenance vehicles, and the operation of motorized or non-motorized wheelchairs by persons with disabilities on footpaths, boardwalks, or other designated trails. Other motorized vehicles may not be operated off the road in the native vegetation buffer as specified in R 281.104.~~
- ~~(vi) Cutting of low growing vegetation in the native vegetation buffer to create a private footpath of not more than 4 feet in width leading to a single point on the river's edge. A boardwalk or other above grade walkway is considered a structure and requires a zoning permit.~~
- ~~(vii) Signs, subject to the provisions of R 281.104.~~
- ~~(viii) A replacement residential water supply well, provided the replacement well is not closer to the river's edge than the well it is replacing and is landward of the native vegetation buffer, and the replaced well is properly abandoned.~~
- ~~(ix) Routine maintenance and repairs of principal uses within the existing foundation and structure, subject to R 281.110.~~
- ~~(x) Satellite dishes that are less than 24 inches in diameter and that are not located in the native vegetation buffer.~~
- ~~(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:~~
 - ~~(i) Single-family dwellings, including detached long-term rental dwellings, if all of the following provisions are complied with:~~
 - ~~(A) Only 1 dwelling shall be permitted per parcel unless 1 of the following occurs:~~
 - ~~(1) The property owner develops a site plan for the parent parcel showing theoretical property lines for individual lots based on Natural River development standards, and locates any additional residences and appurtenances as if the property were divided into those separate lots.~~
 - ~~(2) For each single-family dwelling placed in a cluster-type setting so that the requirements in subdivision (b)(i)(A)(1) are not met, a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal parcel as described in R 281.104 will be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal lot or parcel as described in R 281.104 will be sold, donated, or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or~~

~~the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.~~

~~(B) Building setback for lots shall be not less than 150 feet from the ordinary high watermark on the mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river and not less than 100 feet from the ordinary high watermark on all other designated tributaries, except as described in subdivision (b)(i)(C) of this rule. On the mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river the setback may be decreased 1 foot for every 1 foot rise in bank height to a minimum distance of 100 feet from the ordinary high water mark. The reduction in setback does not apply until the bank height reaches 25 feet, at which point the reduction in setback is 25 feet. On all other tributaries, the setback may be decreased 1 foot for every 1 foot rise in bank height to a minimum distance of 75 feet from the ordinary high water mark. The reduction in setback does not apply until the bank height reaches 15 feet, at which point the reduction in setback is 15 feet. Structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river, and not less than 25 feet from the crest of a bluff on all other designated tributaries. Building shall not take place on land that is subject to flooding or in any wetland area. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.~~

~~(C) If a building setback is in an area of concentrated development and a vacant legal nonconforming parcel is between and adjacent to 2 parcels that contain legal single family dwellings that do not meet the minimum building setbacks, and the adjacent legal nonconforming single family dwellings are within 300 feet of each other, then the minimum building set back for a new single family dwelling on the vacant parcel is the distance from the river of the adjacent single family dwelling that is farthest from the river's edge or the minimum required width of the native vegetation buffer, whichever is greater, provided the single family dwelling is not placed on lands that are subject to flooding or in any wetland area. All appurtenances and accessory buildings shall meet the minimum required building setback described in subdivision (b)(i)(B). All structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.~~

~~(ii) Expansion of a legal nonconforming single family dwelling subject to the provisions of R 281.110(a)(b).~~

~~(iii) Accessory buildings and appurtenances that meet requirements of paragraph (i) of this subdivision.~~

~~(iv) One private boat dock per parcel, subject to the provisions of R 281.104.~~

~~(v) One private river access stairway per parcel, subject to the provisions of R 281.104.~~

~~(vi) Utility lines to service private, single family dwellings.~~

~~(vii) Disposal fields, septic tanks, and outhouses if all of the following provisions are complied with:~~

~~(A) The septic tank and disposal field meet local health department standards.~~

~~(B) The disposal field shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and shall not be located within the 100 year floodplain, a wetland area, or the native vegetation buffer.~~

~~(C) The septic tank shall be no closer to the river than the dwelling it serves and shall not be located within the 100-year floodplain or a wetland area.~~

~~(D) The bottom of the disposal field shall be at least 4 feet above the seasonal high groundwater table.~~

~~(E) An outhouse shall be constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.~~

~~(F) Drywells and earth privies are not permitted unless they are authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.~~

~~(G) An innovative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, except the North Branch of the Pine river from the confluence with Spalding Creek to the confluence with the East Branch of the Pine river, provided no part of the system is in a wetland or the 100-year floodplain.~~

~~(H) Disposal of sludge from any wastewater treatment system is prohibited in the Natural River District.~~

~~(viii) Water supply wells serving exempt, principal, or special uses if the well is landward of the native vegetation buffer described in R 281.104.~~

~~(iv) Mining and extracting industries, if all land disturbance, structures, and other activities related to the industry are located more than 300 feet from the ordinary high watermark.~~

~~(x) Land divisions, if the minimum standards specified in R 281.104 are met. A zoning permit, special use permit or variance will not be granted for any activity on a parcel that is created after the effective date of these rules if the new parcel does not meet R 281.104. No new parcel will be created that would require reaching the only buildable area by constructing a road/stream crossing.~~

~~(xi) Home occupations and home-based occupations, subject to R 281.104.~~

~~(xii) Land alteration, such as grading, dredging, and filling of the land surface, except within the native vegetation buffer, on the face or crest of a bluff, or in a wetland or floodplain as defined in R 281.101. Draining wetlands is prohibited. Ponds may be constructed if the pond is not constructed in a wetland or the 100-year floodplain, the pond meets the building setback established for the area, spoils are placed in a non-wetland, non-floodplain area landward of the native vegetation buffer, and the pond is not connected to the river by any surface or subsurface drainage system.~~

~~(xiii) Bridges, including any structure of any span length designed to provide a pedestrian or vehicle stream crossing, subject to all the following standards:~~

~~(A) All existing bridges that are destroyed by any means, whether on a tributary or mainstream segment, may be replaced. On mainstream segments, destroyed pedestrian bridges may not be replaced with vehicle bridges.~~

~~Destroyed bridges shall be replaced within 18 months of destruction or the replacement bridge shall be considered to be a new bridge and shall be subject to new bridge standards.~~

~~(B) New bridges are not permitted on any parcel that is created after the effective date of these rules.~~

~~(C) New bridges of any type are prohibited on mainstream segments.~~

~~(D) All replacement bridges on mainstream segments shall span the bankfull channel, have a minimum clearance of 5 feet between the ordinary high water mark and "low steel" (the bottom~~

of the bridge deck and/or deck supports other than abutments), and be a structure with a natural bottom, for example, pipe, box or arch culverts are not permitted.

~~(E) New pedestrian bridges are permitted on all tributaries provided the lands connected by a new bridge were, at the time of adoption of these rules, and continue to be, collectively owned by 1 person.~~

~~(F) New bridges linking properties in separate ownership shall not be permitted except in areas where construction of such a bridge to access a permitted building site will result in less resource damage than construction of another type of permitted access. The exception shall only apply to lots that were created before the effective date of these rules.~~

~~(G) Only 1 bridge is permitted to access a portion of land that is otherwise inaccessible from the owner's contiguous property.~~

~~(H) Permanent new bridges on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box, or arch culverts are not permitted, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, including dirt bikes and ATVs are excluded.~~

~~(I) Permanent bridges replacing bridges that have natural bottoms on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box or arch culverts are not permitted, and in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, including dirt bikes and ATVs are excluded.~~

~~(J) Permanent bridges replacing bridges without natural bottoms on tributaries must span the bankfull channel, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, including dirt bikes and ATVs are excluded.~~

~~(K) Temporary vehicle bridges on tributaries for the purpose of access for timber harvest may be permitted provided they are constructed in a manner that minimizes disruption of the stream and are removed immediately after harvesting activities. Disturbed areas in the native vegetation buffer shall be revegetated, any fill placed shall be removed, and the land shall be returned to its original grade as soon as possible after removal of the bridge. Proper erosion/sedimentation control methods shall be used during placement and use of the bridge.~~

~~(L) New permanent vehicle bridges on tributaries may be allowed upon receipt of a special use permit.~~

~~(xiv) Forest management activities within the native vegetation buffer, subject to the provisions of R 281.104.~~

~~(xv) Boardwalks that meet the setback requirements of subrule (2)(C) of this rule and boardwalks associated with a footpath to the river's edge subject to of R 281.104(6).~~

~~(c) The Pine river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. To ensure that such uses do not contravene the goals and objectives of the Pine river natural river plan and these rules, such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:~~

~~(i) Detached rental cabins, if all of the following provisions are complied with:~~

~~(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of frontage. Clustering of rental cabins is permitted and encouraged; however, there shall not be more than 1 cabin per 200 feet of river frontage. For each cabin placed in a cluster type setting, a portion of the parent parcel containing square footage, width, depth, and buildable area equal to a newly created separate legal parcel as described R 281.104 shall be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that~~

portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth, and buildable area equal to a newly created separate legal lot or parcel as described in R 281.104 will be sold, donated or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.

~~(B) The size of each cabin shall not exceed 900 square feet and 1 story in height. The cabin shall not contain sleeping accommodations for more than 8 people.~~

~~(C) Each cabin shall be set back a minimum of 200 feet from the ordinary high watermark. All associated buildings and structures shall be located outside of the Natural River District.~~

~~(D) Temporary recreational facilities, including tents, camper trailers, and recreational vehicles shall be located outside of the Natural River District.~~

~~(E) Each cabin shall be a minimum of 75 feet from the property line of adjacent riverfront properties.~~

~~(F) Establishment of vegetative buffers along side or back lot lines may be required for rental cabins that are adjacent to existing residential uses.~~

~~Buffers shall consist of plant material that is indigenous to the area in a strip at least 20 feet wide composed of deciduous trees interspersed with coniferous trees to be spaced not more than 10 feet apart. Deciduous trees shall be a minimum of 8 feet in height and coniferous trees a minimum of 5 feet in height at the time of planting. The buffer shall also include dense shrubs placed not less than 5 feet apart having a minimum of 3 feet in height when planted. The entire buffer shall be maintained in at least as healthy a condition as when planted.~~

~~(G) Docks may be constructed for the private use of occupants of the rental cabins. Permanent and seasonal docks shall comply with the general standards for docks and all of the following provisions:~~

~~(1) Docks shall be not larger than 48 square feet, with not more than 4 feet of the dock extending into the water.~~

~~(2) Docks may be constructed at the rate of 1 dock per 1000 feet of frontage. If the property in question contains less than 1000 feet of frontage, 1 dock will be permitted.~~

~~(3) Docks shall be constructed of natural materials that blend with the natural surroundings.~~

~~(4) Access to a dock or docks shall be along a single designated footpath not more than 4 feet wide to minimize disruption of the native vegetation buffer.~~

~~(5) Any steps or stairs necessary on the stream bank to access the dock shall be constructed without cutting into the ground surface, unless site and soil conditions indicate that a recessed stairway will better meet the goals and objectives of designation.~~

~~(ii) Campgrounds, including those with provisions for tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, impervious pads, and utility hookups, if all of the following provisions are complied with:~~

~~(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.~~

~~(B) Commercial buildings associated with the campground are prohibited in the Natural River District.~~

~~(C) All permanent structures shall be at least 200 feet from the river's edge.~~

~~(D) Campsites are permitted at a density of not more than 4 sites per acre of land that is located in the Natural River District and landward of the native vegetation buffer.~~

~~(E) A 100 foot wide native vegetation buffer along the river shall be maintained.~~

~~(F) Campsites that accommodate wheeled motor vehicles shall be at least 200 feet from the river's edge.~~

~~(G) Walk-in campsites shall be landward of the native vegetation buffer.~~

- ~~(H) Docks may be constructed at the rate of 1 dock not larger than 48 square feet for each 200 feet of river frontage, accessed by a single footpath not more than 4 feet wide.~~
- ~~(I) No motorized vehicle access to the river is permitted.~~
- ~~(J) Launching or retrieval of commercial watercraft, other than by registered campers on-site, is prohibited at any newly developed campground.~~
- ~~(iii) Permanent vehicle bridges on tributaries subject to the provisions of R 281.107.~~

~~R 281.108 Application and approval; procedures and standards; principal uses and special uses.~~

~~Rule 8. (1) An application for a principal use shall be submitted and processed pursuant to all the following procedures:~~

- ~~(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:~~
 - ~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~
 - ~~(ii) A site plan that meets the requirements of R 281.106.~~
 - ~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.~~
- ~~(b) Within 21 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.~~
- ~~(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~
- ~~(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.~~
- ~~(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~
- ~~(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. An application for an extension shall be made before the permit expires. Any subsequent extensions for a variance approval shall have the written approval of the zoning review board.~~
- ~~(2) An application for a special use permit shall be submitted and processed pursuant to the following procedures:~~
 - ~~(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:~~
 - ~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~
 - ~~(ii) Eight copies of a site plan that meet the requirements of R 281.106.~~
 - ~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.~~
 - ~~(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property that is being considered for a special use.~~
 - ~~(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.~~

~~(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:~~

~~(i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.~~

~~(ii) Notice shall be sent by first class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in subdivision (a)(iv) of this subrule.~~

~~(iii) Notice shall also be sent to all of the following entities:~~

~~(A) The natural rivers unit of the Michigan department of natural resources.~~

~~(B) Local tax assessing officials.~~

~~(C) Township and county clerks.~~

~~(D) Local building inspectors.~~

~~(E) State, district, or county health department, when applicable.~~

~~(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.107, are satisfied:~~

~~(i) That the purposes specified in R 281.102 are accomplished.~~

~~(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.~~

~~(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.~~

~~(e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.~~

~~(f) The concurring vote of at least 4 of the 7 voting members of the zoning review board shall be required to approve a special use.~~

~~(g) A special use that is granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, then the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.~~

~~(h) If the zoning review board determines that the applicant has failed to comply with any of the requirements of these rules or the approved special use permit, then the board, after a public hearing held in accordance with the provisions of subdivision (c) of this subrule, may revoke any special use approval.~~

~~(i) An application for a special use that has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts and conditions exist which might result in favorable action upon resubmission.~~

~~(j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.~~

~~(k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

~~R 281.109 Variances and variance hearings.~~

~~Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or, in certain instances, by the zoning administrator as provided in subrule (3) of this rule to allow a modification from a standard that~~

establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in complying with these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.

~~(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in complying with these rules as specified in subrule (1) of this rule:~~

~~(a) How substantial the variance is in relation to the zoning requirements.~~

~~(b) Whether a substantial change will be effected in the character of the area or a substantial detriment created for adjoining properties.~~

~~(c) Whether the difficulty can be overcome by some feasible method other than a variance.~~

~~(d) Whether, in view of the manner in which the difficulty arose, the interests of justice will be served by allowing the variance.~~

~~(e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.~~

~~(f) Whether the variance may result in a material adverse effect on the environment.~~

~~(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses.~~

Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances are defined as reductions in setbacks for uses on any lawful lot that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures, including decks, porches, and steps.

~~(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors exist:~~

~~(a) The property cannot be used in a manner that is consistent with existing zoning.~~

~~(b) The hardship results from the application of these rules to the applicant's property.~~

~~(c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.~~

~~(d) The hardship is not the result of the applicant's own actions.~~

~~(e) The hardship is peculiar to the applicant's own property.~~

~~(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.~~

~~(6) For a land use variance, the zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:~~

~~(a) The use will be consistent with and in accordance with the general objectives of the Pine river natural river plan.~~

~~(b) The use will be designed, constructed, operated, and maintained consistent with and appropriate in appearance with the existing or intended character of the natural river district and the use will not change the essential character of the natural river district.~~

- ~~(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or the persons or agencies that are responsible for the establishment of the proposed use may adequately provide essential services.~~
- ~~(d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.~~
- ~~(e) The use will be consistent with the intent and purposes of these rules.~~
- ~~(f) The use or the structures to be used will not cause an overcrowding of the land or an undue concentration of population that may result in degradation to the river and district.~~
- ~~(g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.~~
- ~~(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow the procedure established for special use applications by R 281.108. A decision shall be made within 30 days after the final hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, findings, and actions taken on each matter heard by it, including the final order. Reasons for the decision shall be in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of at least 4 of the 7 voting members of the zoning review board is required to effect a dimensional variance in these rules. The concurring vote of at least 5 of the 7 voting members of the zoning review board is required to grant a land use variance in these rules. If the required concurring vote for approval of a variance is not achieved, the variance is denied.~~
- ~~(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.~~
- ~~(9) A variance shall create a nonconforming land use, lot, or structure that is subject to the provisions of R 281.110 which regulates continued use.~~
- ~~(10) The zoning review board or the zoning administrator may impose conditions on an applicant before granting a variance. Such conditions shall be in writing. The zoning permit issued for the project for which the variance was approved is not valid until the applicant accepts the conditions in writing.~~
- ~~(11) An application for a variance that has been denied by the zoning review board or zoning administrator shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts and conditions exist which might result in favorable action upon resubmission.~~

~~R 281.110 Nonconforming uses, lots, and structures.~~

~~Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted pursuant to the terms of these rules. Legal nonconforming uses, structures, or lots shall continue until they are brought into conformity and, in certain instances, permit the limited expansion of certain legal nonconforming uses and structures.~~

~~(2) If the combination of 2 or more contiguous nonconforming vacant lots owned by the same person results in an increase in conformance with the dimensional requirements of these rules, then the lots shall be combined for use, unless the lots are within a plat established before the adoption of these rules wherein more than 50% of the platted lots contain a single-family dwelling.~~

~~(3) An application for a zoning permit for a principal use on a legal nonconforming lot of record shall be approved by the zoning administrator if both of the following provisions are complied with:~~

~~(a) The principal use complies with these rules, except the minimum lot width and area requirements.~~

~~(b) The applicant or owner of the subject lot does not own other contiguous properties when, if combined with the nonconforming lot, would result in increasing the conformity of the lot.~~

~~(4) An application for a zoning permit for a principal use on a legal nonconforming lot of record that is not in compliance with subrule (3)(a) and (b) of this rule shall be treated as a variance pursuant to R 281.109.~~

~~(5) Where, on the effective date of these rules, a lawful use of land exists that is made unlawful pursuant to these rules the use may be continued if it remains otherwise lawful, subject to all of the following provisions:~~

~~(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of these rules without a land use variance. Enlarging, increasing or extending a lawful, nonconforming use shall be treated as a variance pursuant to R 281.109.~~

~~(b) The nonconforming use and the structures associated with the nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by such use on the effective date of these rules unless the move would result in a greater degree of conformity with these rules.~~

~~(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.~~

~~(6) Where a lawful structure exists on the effective date of these rules that is made unlawful pursuant to these rules, the structure may be continued if it remains lawful, subject to all of the following provisions:~~

~~(a) The structure may not be expanded or altered in a way that increases its nonconformity, such as expanding toward the river's edge or increasing the height above the maximum height standard. However, the ground floor area, for example, "footprint," of any legal nonconforming single-family dwelling may be increased by up to 50% (or up to 75% if the expansion requires a minor variance) of the existing enclosed ground floor living area cumulative from the date of nonconformance, or to the minimum extent necessary to comply with local standards for minimum legal floor area for dwellings, whichever is greater, through alterations, repairs, and additions, if the increase does not increase the nonconformity of the dwelling. Any alteration of a legal nonconforming dwelling must, to the extent possible, be in compliance with all setback and other building requirements. Any expansion of a lawful, nonconforming dwelling, including addition of additional stories, shall be treated as a variance pursuant to R 281.109 unless it meets the criteria in (10)(6)(b) of this rule.~~

~~(b) Expansion of a nonconforming single-family dwelling may be permitted by the zoning administrator, without the need for a variance, if either of the following applies:~~

~~(i) Part of the expansion is located within the native vegetation buffer, expansion of the dwelling is to the landward side of the existing structure and is less than a 50% increase in enclosed~~

~~ground floor living area and the height of the expansion is not greater than the height of the original dwelling, and the expansion is not located in a wetland or the 100-year floodplain.~~

~~(ii) The expansion is located completely outside the native vegetation buffer, expansion of the dwelling is not closer to the river than the closest point of the existing dwelling and is less than a 50% increase in enclosed ground floor living area and the height of the expansion is not greater than the height of the original dwelling, and the expansion is not located in a wetland or the 100-year floodplain.~~

~~(c) If any legal nonconforming structure is destroyed by any means, except willful destruction by the property owner or his or her agent, to an extent that is more than 50% of twice its assessed evaluation, then restoration of the structure may be permitted by the zoning administrator, without the need for a variance, if all of the following conditions exist:~~

~~(i) The structure is not located on land subject to flooding (the 100-year floodplain).~~

~~(ii) The presence of the nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(iii) The restored structure occupies the same enclosed ground floor area, for example, "footprint," and contains the same square footage as the original structure.~~

~~(iv) Application for permission to restore a damaged structure is made within 12 months of the time of damage. An extension may be granted if the property is held in probate, an insurance settlement related to the damage is in dispute or a criminal investigation related to the damage is in progress.~~

~~(v) If any of the provisions of subdivision (c)(i) to (iv) of this subrule cannot be met, restoration of a destroyed legal nonconforming structure shall require a variance.~~

~~(d) If a structure is willfully destroyed by the property owner or his or her agent to an extent that is more than 50% of twice its assessed evaluation, the property owner shall meet the building setback requirement to the greatest extent possible when constructing any new or replacement structure.~~

~~(e) If a variance is granted for a new single family dwelling to replace a single family dwelling, the new dwelling shall not occupy more than 150% of the enclosed ground floor area of the destroyed dwelling, except that if a minor variance is granted for a new single family dwelling to replace a single family dwelling, the new dwelling shall not occupy more than 175% of the enclosed ground floor area of the destroyed dwelling.~~

~~(f) A variance shall not be granted for a new nonconforming structure to replace a destroyed nonconforming structure that would result in the new structure being more nonconforming than the destroyed structure.~~

~~(g) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure on the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules. Moving a legal nonconforming structure requires a zoning permit and may require a variance.~~

R 281.110 Rogue river system boundaries.

Rule 60. The boundaries of the Rogue river natural river district shall be as described in these rules and as depicted on the certified Rogue river natural river zoning map with an effective date of June 2, 1980. The Rogue river natural river zoning district comprises an area that is described as follows:

- (a) The mainstream of the Rogue river from 20 Mile road in section 11, T10N, R12W to its confluence with the Grand river.
- (b) Spring creek from its source in section 4, T10N, R11W to its confluence with the Rogue river.
- (c) Duke creek from its source in section 1, T10N, R11W to its confluence with the Rogue river.
- (d) Cedar creek from its source in section 29, T10N, R10W to its confluence with the Rogue river.
- (e) Stegman creek from its source in section 16, T9N, R10W to its confluence with the Rogue river.
- (f) Becker creek from its sources in sections 5 and 8, T9N, R10W to its confluence with the Stegman creek.
- (g) Shaw creek from its sources in section 29, T9N, R10W to its confluence with the Rogue river.
- (h) Rum creek from its source in section 4, T8N, R10W to its confluence with the Rogue river.
- (i) Barkley creek from its source in section 8, T9N, R10W to its confluence with the Rogue river.
- (j) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (i) of this rule.
- (k) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (j) of this rule.

R 281.111 Zoning administrator and zoning review board; appointment; duties. Rogue river system principal uses; natural vegetation strip.

~~Rule 11. (1) The director shall appoint a zoning administrator and zoning review board to act as his or her agents to enforce these rules.~~

~~(2) The zoning administrator shall do all of the following:~~

- ~~(a) Provide necessary forms and applications and receive and process applications.~~
- ~~(b) Determine and verify zoning compliance when the applicant's plans are found to conform to these rules.~~
- ~~(c) Conduct site inspections to ensure compliance with these rules.~~
- ~~(d) Pursue resolution of violations of the provisions of these rules.~~
- ~~(e) Issue any authorized permits and certificates of zoning compliance.~~
- ~~(f) Identify and record information relative to nonconformities.~~
- ~~(g) Maintain files of applications, permits, and other relevant documents.~~
- ~~(h) Schedule meetings and hearings for, and provide assistance to, the zoning review board.~~
- ~~(i) Act on minor variances as permitted by provisions of R 281.109.~~

~~(3) The zoning review board shall do all of the following:~~

- ~~(a) Adopt rules of procedure that govern the transaction of its business.~~
- ~~(b) Act upon requests for special use permits.~~
- ~~(c) Act on certain dimensional and land use variances pursuant to R 281.109.~~
- ~~(d) Act on the interpretation of the official zoning map pursuant R 281.105.~~
- ~~(4) In establishing the zoning review board, the director shall cooperate with, and seek the advice of, all of the following entities:~~

~~a) Affected townships and counties.~~

~~b) Conservation districts.~~

~~c) Property owners' associations.~~

~~d) Other interested local organizations and citizens.~~

~~(5) The director shall request that each affected township appoint 1 person to represent its interests on matters within its jurisdiction. The director shall request that each affected county appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The director shall request that each affected conservation district appoint 1 person to represent its interests on matters within its jurisdiction. County, township, and conservation district representatives who are appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or conservation districts do not appoint an individual to represent them within 60 days from the request by the director, the director may make appointments on his or her own motion. The director shall appoint 1 local DNR representative and 2 citizens representatives who shall vote on all matters before the board.~~

~~(6) In accordance with subrule (5) of this rule, the director shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The director shall appoint alternates for the local DNR representative and 2 citizens representatives. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.~~

~~(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.~~

Rule 61. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with the following provisions:

(i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream and 100 feet from the ordinary high-water mark on all designated tributaries, except as described in R 281.57.

(ii) A dwelling shall be set back not less than 50 feet from the top of a bluff on a cutting edge of a stream.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

- (i) A septic tank and disposal field meet local health department standards.**
- (ii) A disposal field located not less than 100 feet from the ordinary high-water mark on the mainstream and all designated tributaries and not less than 50 feet from any surface or subsurface drain that discharges into the Rogue river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.**
- (iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.**
- (iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall not be located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Rogue river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.**
- (v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.**
- (vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.**
- (vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.**
- (g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.**
- (h) A land division, if any lot created after June 2, 1980, with all the following provisions:**
 - (i) Is accessible by a public road or legal easement standards on at least 1 side of the stream that has all the following:**
 - (ii) At least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 200 feet wide at the minimum building setback line.**
 - (iii) At least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.**
 - (iv) Sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.**
 - (v) A lot that exists on June 2, 1980, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after June 2, 1980, shall meet the minimum requirements of this rule, except as provided in R 281.56.**
- (i) Home occupations and home-based occupations, subject to R 281.57.**
- (j) Land alteration, subject to R 281.57.**
- (k) Bridges, subject to R 281.58.**
- (l) Forest management activities within the natural vegetation strip, subject to R 281.57.**

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Rogue river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the Rogue river mainstream. A restrictive cutting belt that includes the river and all lands within 25 feet of the ordinary high-water mark shall be maintained on each side of designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

~~R 281.112 Appeals; contested cases.~~

~~Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of 1969 PA 306, MCL 24.201 et seq. and R299.3071 to R 299.3081.~~

~~R 281.113 Violations; effect; remedies.~~

~~Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates these rules. The director shall not waive any of his or her rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to these rules is invalid from the date of the authorization.~~

~~(2) In addition to all other remedies, the director may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.~~

~~R 281.114 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.~~

~~Rule 14. (1) The director may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of 1969 PA 306, MCL 24.271 to 24.287, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.102.~~

~~(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:~~

- ~~a) The county register of deeds.~~
- ~~b) Township and county clerks.~~
- ~~c) The local building inspector.~~
- ~~d) Local soil erosion and sedimentation control enforcement agencies.~~
- ~~e) The conservation district.~~
- ~~f) County drain commissioner.~~
- ~~g) Zoning review board members.~~

~~(3) A local zoning ordinance that meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and either 1943 PA 184, MCL 125.271, or 1943 PA 183, MCL 125.101, whichever is applicable, shall take precedence over these rules. If a local zoning ordinance does not meet all of the requirements of Natural Rivers Part 305 of 1994 PA 451, or if the local ordinance becomes inapplicable to the land area encompassed by the Pine river natural river district through court action or for any other reason, these rules shall apply. A local unit of government may, at any time, request the assistance of the department of natural resources in developing an ordinance that meets the requirements of Natural Rivers Part 305 of 1994 PA 451. The director shall determine if a local ordinance meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and shall notify the local unit of government of his or her decision in writing. If the director withdraws his or her approval of a local zoning ordinance, these rules shall apply.~~

R 281.120 Boardman river system boundaries.

Rule 70. The boundaries of the Boardman river natural river district shall be as described in these rules and as depicted on the certified Boardman river natural river zoning map with an effective date of June 2, 1980. The Boardman river natural river zoning district comprises an area which is described as follows:

(a) Mainstream of Boardman river from the confluence of the North Branch Boardman river and the South Branch Boardman river in section 4, T26N, R9W to Brown bridge dam in section 15, T26N, R10W.

(b) Mainstream of Boardman river from Brown bridge dam, section 15, T26N, R10W to the north boundary of Grand Traverse county property in section 27, T27N, R11W.

(c) North Branch Boardman river from U.S. 131 in section 20, T27N, R7W to the confluence with the South Branch Boardman river.

(d) South Branch Boardman river from U.S. 131 in section 16, T26N, R8W to the confluence with the North Branch Boardman river.

(e) Beitner creek from Sawyer road in section 8, T26N, R11W to its confluence with the Boardman river.

(f) Unnamed stream from the south line of section 9, T26N, R11W to its confluence with Beitner creek.

(g) Jaxon creek from the south line of section 31, T26N, R10W to its confluence with the Boardman river.

(h) Swainston creek from the west line of section 8, T25N, R10W to its confluence with the Boardman river.

(i) Jackson creek from Wood road in section 14, T25N, R10W to its confluence with East creek.

(j) East creek from the confluence of Bancroft and Parker creeks in section 36, T26N, R10W to its confluence with the Boardman river.

(k) Parker creek from the north line of the south ½ of section 31, T26N, R9W to the confluence with Bancroft creek.

(l) Bancroft creek from Sparling road in section 7, T25N, R9W to the confluence with Parker creek.

(m) Carpenter creek from County road 660 (Supply road) in 13 T26N, R9W to its confluence with Twenty-Two creek.

(n) Twenty-Two creek from the east line of section 27, T26N, R9W to its confluence with the Boardman river.

(o) Taylor creek from U.S. 131 in section 15, T26N, R9W to its confluence with the South Branch Boardman river.

(p) Unnamed stream from its source in section 16, T26N, R9W to its confluence with Taylor creek

(q) Crofton creek from U.S. 131 in section 2, T26N, R8W to its confluence with the North Branch Boardman river.

(r) Failing creek from U.S. 131 in section 30, T27N, R7W to its confluence with the North Branch Boardman river.

(s) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (r) of this rule.

(t) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (s) of this rule.

R 281.121 Boardman river system principal uses; natural vegetation strip.

Rule 71. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with the following provisions:

(i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream from the confluence of the north Branch and South Branch to Brown bridge dam, and 100 feet from the ordinary high-water mark on the mainstream from Brown bridge dam to the north boundary of Grand Traverse county property in section 27, T27N, R11W, Garfield township and on all other designated tributaries except as described in R 281.57.

(ii) Dwellings shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Boardman river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall not be located less

than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Boardman river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may not be located less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after June 2, 1980, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On all designated segments has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 200 feet wide at the minimum building setback line.

(iii) Contains at least 40,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on June 2, 1980, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after June 2, 1980, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Boardman river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on each side of the mainstream from the confluence of the north Branch and South Branch to Brown bridge dam. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the mainstream from Brown bridge dam to the north boundary of Grand Traverse county

property in section 27, T27N, R11W, Garfield township and on all other designated tributaries. Cutting in the natural vegetation strip is subject to the provisions of R 281.57.

R 281.130 Pere Marquette river system boundaries.

Rule 80. The boundaries of the Pere Marquette river natural river district shall be as described in these rules and as depicted on the certified Pere Marquette river natural river zoning map with an effective date of July 15, 1981. The Pere Marquette river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the Pere Marquette from the junction of the middle Branch and the little South Branch, commonly known as the "forks" located in section 22, T17N, R13W to Pere Marquette road in section 25, T18N, R18W, excluding that portion of the river within the city of Scottville.

(b) Swan creek from Darr road section 5, T17N, R16W to its confluence with the Pere Marquette river.

(c) Weldon creek from the outfall of Romeo lake in section 9, T18N, R15W to its confluence with the Pere Marquette river.

(d) The Big South Branch from the confluence of Beaver creek with Winnepesaug creek in section 11, T15N, R14W to its confluence with the Pere Marquette river.

(e) Cedar creek from M-37 in section 3, T16N, R13W to its confluence with the Big South Branch.

(f) Ruby creek from its source in section 6, T16N, R15W to its confluence with the Big South Branch.

(g) Carr creek, excluding that portion of the stream which branches north in section 14, T17N, R15W, from Tyndal road in section 18, T17N, R14W to its confluence with the Big South branch.

(h) Sweetwater creek from its source in section 21, T18N, R14W to its confluence with the Pere Marquette river.

(i) Kinney creek from the outfall of Wingleton lake in section 31, T18N, R13W to its confluence with the Pere Marquette river.

(j) Danaher creek from the C & O railroad in section 27, T17N, R13W to its confluence with the Pere Marquette river.

(k) The Baldwin river, excluding that portion in the village of Baldwin, from the outfall of the widewaters in section 32, T19N, R12W to its confluence with the Pere Marquette river.

(l) North Branch of Cole creek, from big spring in section 15, T18N, R12W to its confluence with the South Branch of Cole creek.

(m) South Branch of Cole creek from the west line of section 22, T18N, R12W to its confluence with the North Branch of Cole creek.

(n) Cole creek from the confluence of the North and South Branches of Cole creek in section 20, T18N, R12W to its confluence with the Baldwin river.

(o) Bray creek from the outfall of Bray lake in section 26, T18N, R13W to its confluence with the Baldwin river.

(p) Sanborn creek, excluding that portion in the village of Baldwin, from State road in section 24, T18N, R12W to its confluence with the Baldwin river.

(q) Leverentz creek from the outfall of Leverentz lake in section 35, T18N, R13W to its confluence with the Baldwin river.

(r) The middle branch from Baker road in section 8, T17N, R11W downstream to the "forks."

(s) Blood creek from its source in section 16, T17N, R12W to its confluence with the middle Branch.

(t) The Little South branch from U.S. forest service road 5309 in section 9, T15N, R12W, downstream to the "forks."

(u) McDuffee creek from 13 mile road in section 34 T16N, R12W, downstream to its confluence with the Little South Branch.

(v) The Pease creek from the south line of section 34, T17N, R12W, and from the east line of section 7, 16N, R11W to its confluence with the Little South Branch.

(w) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (v) of this rule.

(x) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (w) of this rule.

R 281.131 Definitions Pere Marquette River system principal uses; natural vegetation strip.

~~Rule 1. As used in these rules:~~

~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.~~

~~(b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:~~

~~(i) Garages.~~

~~(ii) Residential storage structures.~~

~~(iii) Barns and other agricultural storage or livestock structures.~~

~~(iv) Pump houses.~~

~~(v) Wells.~~

~~(vi) Private access roads.~~

~~(vii) Sanitary facilities.~~

~~(viii) Electrical service lines.~~

~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~

~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~

~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~

~~(f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.~~

~~(g) "Commission" means the natural resources commission.~~

~~(h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~

~~(i) "Director" means the director of the department of natural resources.~~

~~(j) "Family" means either of the following:~~

~~(i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2~~

~~additional unrelated persons, are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.~~

~~(ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing nontransient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.~~

~~(k) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, to serve as an aid to the infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view.~~

~~"Filtered view of the river" means no clear cutting.~~

~~(l) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (q) of this rule.~~

~~(m) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.~~

~~(n) "Front" means that segment of a lot or parcel abutting the river's edge of the main stream or tributary.~~

~~(o) "Front yard" means setback as provided for in R 281.137(b)(i)(D).~~

~~(p) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home as a use which is clearly incidental and secondary to the use of the home as a dwelling place.~~

~~(q) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.~~

~~(r) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~

~~(s) "Lot area" means the area inside the lot lines.~~

~~(t) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.~~

~~(u) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.~~

~~(v) "Natural river district" means the Betsie river natural river district as described in the provisions of R 281.135.~~

~~(w) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~

~~(x) "Rear yard" means that yard opposite the front yard.~~

~~(y) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.~~

~~(z) "River's edge" means the ordinary high watermark as used in the provisions of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (w) of this rule.~~

~~(aa) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~

~~(bb) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~

~~(cc) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~

~~(dd) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are used less than 30 days per year and if they are located landward of the natural vegetation strip or if the facilities are located on a campsite within a campground that is licensed under the provisions of Act No. 368 of the Public Acts of 1978, as amended, being S333.1101 et seq. of the Michigan Compiled Laws, if both the individual campsite and the campground were established before the effective date of these rules.~~

~~(ee) "Zoning administrator" means the administrator of these rules who is appointed by the commission.~~

~~(ff) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with all of the provisions of these rules.~~

~~(gg) "Zoning review board" means a group of not less than 3, nor more than 7, people which includes not less than 2 local representatives and 1 department of natural resources representative who is familiar with the local area and which is appointed by the commission to act upon requests as provided for by these rules.~~

Rule 81. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream, the Big South Branch, the Little South Branch, the Middle Branch, and the Baldwin river and 100 feet on all other designated tributaries except as described in R 281.57.

(ii) The setback may be decreased 1 foot for every 1 foot of rise in bank height to a minimum of 100 feet from the ordinary high-water mark on the mainstream and to a minimum of 75 feet from the ordinary high-water mark on all other designated tributaries.

(iii) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iv) Building shall not take place on land that is subject to flooding or in any wetland area.

(v) The natural contour of the face and crest of the bluff shall not be altered.

(vi) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Pere Marquette river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Pere Marquette river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, except the Little South branch, Big South branch, Middle branch and Baldwin river, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, for any lot created after July 15, 1981, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On the mainstream, Big South branch, Little South branch, Middle branch, and Baldwin river, has at least 200 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 200 feet wide at the minimum building setback line. On all other designated tributaries, has at least 150 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 150 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the

parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on July 15, 1981, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after July 15, 1981, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Pere Marquette river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on each side of the Pere Marquette river mainstream, Big South branch, Little South branch, Middle branch and Baldwin river. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of all other designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

R 281.132 Purpose; intent; scope.

~~Rule 2. (1) The commission, on its own motion, to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Betsie river, a designated natural river, promulgates these zoning rules for the following purposes:~~

~~(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.~~

~~(b) To protect the free flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Betsie river and adjoining land.~~

~~(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~

~~(d) To provide for uses that complement the natural characteristics of the natural river system.~~

~~(e) To protect individuals from investing funds in structures that are proposed for location on lands which are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~

~~(f) To achieve the goals and objectives of the Betsie river natural river plan.~~

~~(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes~~

identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.

~~(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder, the provisions of Act No. 231 of the Public Acts of 1970, and the rules promulgated thereunder shall apply.~~

~~R 281.133 Construction of language; severability.~~

~~Rule 3. (1) All of the following rules of construction apply to the text of these rules:~~

~~(a) The particular shall control over the general.~~

~~(b) In the case of any difference of meaning or implication between the text of these rules and any caption or illustration, the text shall control.~~

~~(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.~~

~~(d) Words used in the present tense shall include the future. Words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.~~

~~(e) A "building" or "structure" includes any part thereof.~~

~~(f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."~~

~~(g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.~~

~~(h) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either ... or," the conjunction shall be interpreted as follows:~~

~~(i) "And" indicates that all of the connected items, conditions, or provisions shall apply.~~

~~(ii) "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.~~

~~(iii) "Either ... or" indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.~~

~~(i) Terms not defined in these rules shall have the meanings customarily assigned to them.~~

~~(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.~~

~~R 281.134 Lot size and area; subdivision of land; home occupations; natural vegetation strip; signs; docks; height of structures.~~

~~Rule 4. (1) Unless otherwise provided for within these rules, any lot or parcel of property created after the effective date of these rules, or amendments thereto, shall have a minimum area of 50,000 square feet and a minimum average width of 200 feet throughout the length of the lot or parcel. The average lot width shall be based on the average of the combined widths of the front and rear lot lines.~~

~~(2) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.~~

~~(3) Proposed lots which have preliminary plat approval pursuant to the provisions of Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.139.~~

~~(4) Lots of record which are created before the effective date of these rules, or amendments thereto, and which do not possess sufficient land area or lot width may be used for the purposes described within these rules, subject to the requirements provided for in R 281.139.~~

~~(5) Home occupations shall conform to both of the following requirements:~~

~~(a) The use of the dwelling unit, or related structure, for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation shall not occupy more than 30% of the aboveground floor area of the dwelling unit. This requirement shall apply whether the home occupation is contained wholly within the dwelling unit or utilizes a garage.~~

~~(b) Equipment or a process shall not be used in a home occupation that is conducted in a single-family dwelling unit or its associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses off the premises and shall not be used in a home occupation that is conducted in other than a single-family dwelling unit or an associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses outside the dwelling unit.~~

~~(6) Within the natural river district, not less than a 50-foot restrictive cutting belt shall be maintained on each side of the main stream of the Betsie river and its designated tributaries. Trees and shrubs may be pruned for a filtered view of the river, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to all of the following provisions:~~

~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy and poison sumac, may be removed.~~

~~(b) The selected removal or trimming of trees for timber harvest, access or woodlot improvements, landscaping, or public utility lines to service private single-family dwellings and other permitted uses is permitted upon approval of the zoning administrator.~~

~~(c) Camping is not permitted in the natural vegetation strip.~~

~~(7) Signs shall not be visible from the river, except:~~

~~(a) "No Trespassing" signs if the signs are not more than 1 square foot in area and are spaced a minimum of 100 feet apart.~~

~~(b) One identification sign of rustic design, associated with a canoe livery, campground or rental cabins, which is not more than 6 square feet in area. The sign shall be for the purpose of identification of a designated watercraft landing site and shall be located at the designated landing site.~~

~~(c) Signs posted by public agencies to provide for public safety such as warning of impending dangers in the river, or to identify a public access site or campground. Such signs may need to be larger than 6 square feet in area to accomplish their designated purpose. Signs which identify a public access site or campground shall be of rustic design.~~

~~(8) Private boat docks shall be in compliance with all of the following requirements:~~

~~(a) Docks shall not be more than 4 feet in width and not more than 20 feet in length, with not more than 4 feet of the dock extending over the edge of the river.~~

~~(b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.~~

~~(c) Unless provided for within these rules, only 1 dock shall be constructed per lot.~~

~~(9) Unless otherwise provided for within these rules, a structure shall not be more than 2 1/2 stories in height, not including a basement.~~

~~R 281.135 Boundaries; interpretation of boundaries; filing of zoning map.~~

~~Rule 5. (1) The boundaries of the Betsie river natural river district shall be as described in these rules and as depicted on the certified Betsie river natural river zoning map. The Betsie river natural river zoning district comprises an area which is described as follows:~~

~~(a) The Betsie river from Grass lake dam in section 2, T25N, R13W, in Benzie county to its mouth at Betsie lake in section 35, T26N, R16W, including Thompsonville pond.~~

~~(b) The Little Betsie river from its headwaters in section 24, T25N, R13W, in Benzie county to its confluence with the Betsie river in section 25, T25N, R14W.~~

~~(c) Dair creek from its headwaters in section 15, T25N, R14W, in Benzie county to its confluence with the Betsie river in section 19, T25N, R14W.~~

~~(d) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (c) of this subrule.~~

~~(2) Where uncertainty exists with respect to the boundaries of the district as shown on the zoning map, all of the following provisions shall apply:~~

~~(a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.~~

~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.~~

~~(c) Boundaries that are indicated as approximately following city, village, township, or county boundary lines shall be construed as following the city, village, township, or county boundary lines.~~

~~(d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.~~

~~(e) Boundaries that are indicated as following shorelines shall be construed to follow the shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines.~~

~~Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerline.~~

~~(f) Boundaries that are indicated as parallel to or extensions of features specified in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.~~

~~(g) Where physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, the zoning review board shall interpret the district boundaries.~~

~~(h) Insofar as a portion or all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, it is intended that the district boundaries do extend to the center of any public right-of-way.~~

~~(3) Certified copies of the Betsie river natural river zoning map shall be filed with all of the following entities:~~

~~(a) The state tax commission.~~

~~(b) Local tax assessing officers.~~

~~(c) Township and county clerks.~~

~~(d) The natural rivers unit of the Michigan department of natural resources.~~

~~R 281.136 Zoning permits; site plans; certificates of zoning compliance.~~

~~Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.137(1). Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.~~

~~(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, shall have the authority to require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:~~

- ~~(a) A site plan drawn to scale, with the scale indicated.~~
- ~~(b) Property dimensions.~~
- ~~(c) The size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.~~
- ~~(d) Existing vegetation, including the location and type.~~
- ~~(e) Adjacent streets and highways.~~
- ~~(f) Parking areas.~~
- ~~(g) Bluff heights.~~
- ~~(h) Entrances to public streets.~~
- ~~(i) A description of the building design, including proposed construction materials.~~
- ~~(j) Drainage facilities.~~
- ~~(k) The location and description of the method to dispose of sanitary wastes.~~
- ~~(l) Proposed landscaping.~~
- ~~(m) The location of footpaths.~~
- ~~(n) Signs proposed, including the size, location, and material.~~
- ~~(o) North arrow.~~
- ~~(p) Date of drawing.~~
- ~~(q) Detailed site location map.~~
- ~~(r) Any additional information deemed by the zoning administrator or zoning review board to be necessary to carry out the administrator's or board's duties. Examples of such information include the following:~~
 - ~~(i) Soil types.~~
 - ~~(ii) Topography.~~
 - ~~(iii) Building elevations.~~
 - ~~(iv) Site photographs.~~
 - ~~(v) Anticipated traffic volumes.~~
 - ~~(vi) Traffic circulation patterns.~~
 - ~~(vii) Other pertinent site information.~~
- ~~(3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance indicating compliance with all of the provisions of these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is~~

~~accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes.~~

~~R 281.137 Land use and development standards.~~

~~Rule 7. Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:~~

~~(a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:~~

~~(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.~~

~~(ii) Reforestation and other accepted forest management practices, subject to the limitations specified in R 281.134(6)(b).~~

~~(iii) Agriculture, including general and specialized farming, unless the bureau of environmental protection of the Michigan department of natural resources determines that such use will significantly contribute to stream degradation.~~

~~(iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.~~

~~(v) The off-road operation of emergency and public utility maintenance vehicles. The off-road operation of other motorized vehicles is prohibited in the natural vegetation strip as specified in R 281.134(6).~~

~~(vi) Private footpaths that are constructed by the landowner of natural materials to facilitate access to permitted uses.~~

~~(vii) Signs, subject to the provisions of R 281.134(7).~~

~~(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator.~~

~~Principal uses include all of the following:~~

~~(i) Single family dwellings, if all of the following provisions are complied with:~~

~~(A) Only 1 dwelling shall be permitted per lot of record.~~

~~(B) Each lot shall be not less than 50,000 square feet.~~

~~(C) The dwelling lot shall have a minimum average width of 200 feet throughout its length.~~

~~(D) Building setback for lots, including all appurtenances and accessory buildings, shall be not less than 200 feet from the ordinary high watermark on the main stream and 100 feet on the Little Betsie river and Dair creek. The setback may be decreased 5 feet for every 1 foot of rise in bank height above 5 feet above the ordinary high watermark, to a minimum of 150 feet from the ordinary high watermark on the main stream.~~

~~Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.~~

~~(ii) Accessory buildings that meet the setback requirements of paragraph (i) of this subdivision.~~

~~(iii) A private boat dock.~~

~~(iv) Utility lines to service private, single family dwellings.~~

~~(v) Disposal fields and septic tanks, if all of the following provisions are complied with:~~

- ~~(A) The fields and tanks shall be located not less than 150 feet from the ordinary high watermark.~~
 - ~~(B) A septic tank or absorption field shall not be located closer than 100 feet to any surface or subsurface drainage system that enters into the Betsie river or its designated tributaries.~~
 - ~~(C) The bottom of the pit associated with an earth privy shall not be less than 4 feet above the known high groundwater table.~~
 - ~~(vi) Mining and extracting industries, if located not less than 300 feet from the ordinary high watermark.~~
 - ~~(vii) Residential single family dwelling plats, if the minimum standards specified in paragraph (i) of this subdivision are met.~~
 - ~~(viii) Home occupations.~~
 - ~~(ix) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the existing natural land surface.~~
 - ~~(c) The Betsie river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. Such uses may result in intensities of development and use higher than would be anticipated under the exempt and principal uses. To ensure that such uses do not contravene the goals and objectives of the Betsie river natural river plan and these rules such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board.~~
- ~~Special uses and their development standards include all of the following:~~
- ~~(i) Detached rental cabins, if all of the following provisions are complied with:~~
 - ~~(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of river frontage. Clustering of rental cabins is encouraged; however, the ratio of 1 cabin per 200 feet of river frontage shall not be exceeded.~~
 - ~~(B) Each cabin and all associated buildings, structures, or other related devices shall be set back a minimum 200 feet from the ordinary high watermark.~~
 - ~~(C) Fences and greenbelts may be required by the zoning review board for rental cabins that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.~~
 - ~~(D) Boat docks may be erected for the private use of occupants of the rental cabins and their guests. Docks shall be in compliance with the requirements of R 281.134 and both of the following provisions:~~
 - ~~(1) Docks may be constructed at the rate of 1 dock for each permitted rental cabin.~~
 - ~~(2) Access to a dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~
 - ~~(ii) Campgrounds, including tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, cement pads, and utility hookups, if all of the following provisions are complied with:~~
 - ~~(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.~~
 - ~~(B) A commercial enterprise shall not be permitted to operate in the campground within the natural river district, except that a convenience goods shopping building that is not more than 1,500 square feet may be provided. The building shall not be more than 1 story in height.~~
 - ~~(C) Each site and all associated buildings, structures, and other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.~~

~~(D) Fences and greenbelts may be required by the zoning review board for campgrounds that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.~~

~~(E) A camping site shall not have more than 4 sites per acre. Clustering of campsites is encouraged; however, the ratio of 4 sites per acre shall not be exceeded.~~

~~(F) Boat docks may be erected for the private use of the occupants of the campsites and their guests if both of the following provisions are complied with:~~

~~(1) The total number of docks shall not be more than 1 dock for each 200 feet of river frontage.~~

~~(2) Access to the dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

~~(iii) Canoe, boat, and other watercraft liveries, if all of the following provisions are complied with:~~

~~(A) Parked vehicles and off-season canoe and boat storage areas shall not be visible from the river.~~

~~(B) Boat docks may be erected at the ratio of 1 dock per 200 feet of river frontage.~~

~~(C) Other than the rental of watercraft, other commercial enterprises shall not be permitted to operate.~~

~~(D) A rental office which is associated with the operation of the livery and which does not have more than 225 square feet may be constructed. The building shall not be more than 1 story in height.~~

~~(E) Access to the dock or docks or place of river entry from the canoe or boat rental office shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

~~R 281.138 Application and approval; procedures and standards; principal uses and special uses.~~

~~Rule 8. (1) An application for a principal use shall be submitted and processed under the following procedures:~~

~~(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:~~

~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~

~~(ii) Two copies of a site plan that meets the requirements of R 281.136(2).~~

~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.~~

~~(b) Within 15 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.~~

~~(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.~~

~~(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

~~(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. Application for an~~

~~extension shall be made before permit expiration. Any subsequent extensions shall have the written approval of the zoning review board.~~

~~(2) An application for a special use permit shall be submitted and processed under the following procedures:~~

~~(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:~~

~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~

~~(ii) Eight copies of a site plan that meets the requirements of R 281.136(2).~~

~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.~~

~~(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property which is being considered for a special use.~~

~~(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.~~

~~(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:~~

~~(i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.~~

~~(ii) Notice shall be sent by first class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in subdivision (a)(iv) of this subrule.~~

~~(iii) Notice shall also be sent to all of the following entities:~~

~~(A) The natural rivers unit of the Michigan department of natural resources.~~

~~(B) Local tax assessing officials.~~

~~(C) Township and county clerks.~~

~~(D) Local building inspectors.~~

~~(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.137(e), be satisfied:~~

~~(i) That the purposes noted in R 281.132 are accomplished.~~

~~(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.~~

~~(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.~~

~~(e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.~~

~~(f) The concurring vote of a majority of the members of the zoning review board shall be required to approve a special use.~~

~~(g) A special use that is granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.~~

~~(h) If it is determined by the zoning review board that the applicant has failed to comply with any of the requirements of these rules or the approval granted, the board, after a public hearing held in accordance with the provisions of subdivision (e) of this subrule, may revoke any special use approval.~~

- ~~(i) An application for a special use which has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, new and significant facts and conditions exist which might result in favorable action upon resubmission.~~
- ~~(j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.~~
- ~~(k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

~~R 281.139 Variances and variance hearings.~~

~~Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or in certain instances by the zoning administrator as provided in subrule (3) of this rule to allow a modification of a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in carrying out the strict letter of these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.~~

~~(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in carrying out the strict letter of these rules as specified in subrule (1) of this rule:~~

- ~~(a) How substantial the variance is in relation to the zoning requirements.~~
- ~~(b) Whether a substantial change will be affected in the character of the area or a substantial detriment created for adjoining properties.~~
- ~~(c) Whether the difficulty can be overcome by some feasible method other than a variance.~~
- ~~(d) Whether, in view of the manner in which the difficulty arose, and considering all of the factors specified in subdivisions (a) to (c) of this subrule, the interests of justice will be served by allowing the variance.~~
- ~~(e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.~~
- ~~(f) Whether the variance may result in a material adverse effect on the environment.~~

~~(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances include the variances specified in the following provisions:~~

- ~~(a) Reductions in setbacks for uses on lawful lots that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps.~~
- ~~(b) Reductions in setbacks for uses on lawful nonconforming lots, including lots within subdivisions, that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps. Conditions may be imposed on an applicant before granting a variance. Such conditions shall be in writing and signed by the applicant before the applicant receives a variance.~~

~~(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a~~

~~finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors exist:~~

- ~~(a) The property cannot be used in a manner that is consistent with existing zoning.~~
- ~~(b) The hardship results from the application of these rules to the applicant's property.~~
- ~~(c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.~~
- ~~(d) The hardship is not the result of the applicant's own actions.~~
- ~~(e) The hardship is peculiar to the applicant's own property.~~
- ~~(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor which could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.~~
- ~~(6) The zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:~~
 - ~~(a) The use will be consistent with and in accordance with the general objectives of the Betsie river natural river plan.~~
 - ~~(b) The use will be designed, constructed, operated, and maintained so as to be consistent with and appropriate in appearance with the existing or intended character of the natural river district and that such use will not change the essential character of the natural river district.~~
 - ~~(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or that the persons or agencies that are responsible for the establishment of the proposed use shall be able to adequately provide any such service.~~
 - ~~(d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.~~
 - ~~(e) The use will be consistent with the intent and purposes of these rules.~~
 - ~~(f) The use or the structures to be used therefor will not cause an overcrowding of the land or an undue concentration of population that will result in degradation to the river and district.~~
 - ~~(g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.~~
- ~~(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow that established for special use applications by the provisions of R 281.138(2)(c). A decision shall be made within 30 days after the hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of a majority of the members of the zoning review board shall be necessary to effect a dimensional variance in these rules, except that a concurring vote of 2/3 of the members of the board of appeals shall be necessary to grant a land use variance permitted in these rules.~~

~~(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.~~

~~(9) The effect of any variance shall be to create a nonconforming land use or structure which shall then be subject to the terms of R 281.140, which regulates continued use.~~

R 281.140 Nonconforming uses, lots, and structures Rifle river system boundaries.

~~Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted under the terms of these rules or future amendments. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit the limited expansion of certain legal nonconforming uses and structures.~~

~~(2) A nonconforming (substandard) lot shall be in compliance with the minimum requirements of the dimensional requirements of these rules, except as such substandard nonconforming lot may be used pursuant to the provisions of R 281.139.~~

~~(3) Where, at the effective date of these rules or amendment of these rules, a lawful use of land exists that is made unlawful under the terms of these rules as promulgated or amended, the use may be continued if it remains otherwise lawful, subject to all of the following provisions:~~

~~(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of these rules or amendment of these rules, except in the case of campgrounds, canoe liveries, and rental cabins which do not meet the standards for special uses specified in R 281.137(c). Such lawful nonconforming uses may be expanded if the increased use meets the standards for special uses specified in R 281.137(c). Expansion of a lawful nonconforming use shall be treated as a variance pursuant to the provisions of R 281.139.~~

~~(b) The nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.~~

~~(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.~~

~~(4) Where a lawful structure exists at the effective date of these rules or amendment of these rules that is made unlawful under the terms of these rules as promulgated or amended, the structure may be continued if it remains lawful, subject to all of the following provisions:~~

~~(a) The structure shall not be enlarged or altered in a way which increases its nonconformity; however, when a single family dwelling or a structure associated with a campground, a canoe livery, or rental cabins is classified as nonconforming, alterations, repairs, and additions, including accessory buildings, may be erected if the gross floor area of all such alterations, repairs, and additions, including accessory buildings, is not more than 50% of the gross floor area of the nonconforming structure, cumulative from the date of nonconformance to the date of the request if any enlargement to a lawful nonconforming structure, to the extent possible, is in compliance with all setback and other building requirements. Expansion of a lawful, nonconforming structure shall be treated as a variance pursuant to the provisions of R 281.139.~~

~~(b) If the nonconforming structure is destroyed by any means to an extent that is more than 50% of its replacement cost, restoration of the structure shall be treated as a variance pursuant to the provisions of R 281.139. In determining whether the structure has been destroyed to an extent that is more than 50% of its replacement cost, the zoning review board or zoning administrator shall use appraised replacement costs, as determined by a qualified individual who is appointed~~

~~by the zoning review board or zoning administrator, and shall compare the value of the part destroyed to the value of the total operating unit where there are several structures which are used together by the landowner as a single operating unit. The request for restoration of a nonconforming structure which is destroyed to an extent that is more than 50% of its replacement value shall be approved if all of the following conditions exist:~~

- ~~(i) The land on which the structure is located is not subject to flooding.~~
- ~~(ii) The continued use of a nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.~~
- ~~(iii) The continued use conforms with local county health codes and is approved by the local county health department.~~
- ~~(iv) The continued use conforms with local building codes and is approved by the local building inspector.~~
- ~~(v) Restoration of a damaged structure that is approved by the zoning review board or zoning administrator shall be started within 1 year from the time of damage.~~
- ~~(c) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.~~

Rule 90. The boundaries of the Rifle river natural river district shall be as described in these rules and as depicted on the certified Rifle river natural river zoning map with an effective date of April 24, 1984. The Rifle river natural river zoning district comprises an area which is described as follows:

- (a) The mainstream of the Rifle river from and including Mallard pond in section 2, R23N, R3E to the northern city limits of Omer in section 10, T19N, R5E, including all channels of the mainstream, except the old channels leading into and out of Devoe lake.**
- (b) Gamble creek from Heath road in section 25, T24 N, R3E, to Mallard pond.**
- (c) Vaughn creek from Heath road in section 27, T24N, R3E, to its confluence with Gamble creek.**
- (d) Oyster creek from Oyster road in section 22, T24N, R3E, to its confluence with Mallard pond.**
- (e) Mayhue creek from the pond in section 28, T24N, R3E, to its confluence with Oyster creek.**
- (f) Houghton creek from Heath road in 30, T24N, R3E, to its confluence with the Rifle river.**
- (g) Wilkins creek from Campbell road in section 11, T23N, R2E, to its confluence with the Rifle river.**
- (h) Prior creek from Morrison road in section 19, T23N, R3E, to its confluence with the Rifle river.**
- (i) Klacking creek from its source in Foose swamp in section 34, T23N, R2E, to its confluence with the Rifle river.**
- (j) Little Klacking creek from its source in section 26, T23N, R2E, to its confluence with Klacking creek.**
- (k) Dedrich creek from Gerald Miller road in section 22, T22N, R3E, to its confluence with the Rifle river.**
- (l) West Branch Rifle river from the outfall of Flowage lake in section 32 T22N, R2E, to its confluence with the Rifle river.**

(m) North and south branches of Eddy creek from M-33 in sections 12 and 13, T21N, R2E, to its confluence with the Rifle river.

(n) Silver creek from Elbow lake road in section 11, T21N, R3E, to its confluence with the Rifle river.

(o) Mansfield creek from Melita road in section 30, T21N, R4E, to its confluence with the Rifle river.

(p) Fritz creek from Fritz road in section 34, T20N, R4E, to its confluence with the Rifle river.

(q) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (p) of this rule.

(r) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (q) of this rule.

R 281.141 Zoning administrator and zoning review board; appointment; duties Rifle river system principal uses; natural vegetation strip.

~~Rule 11. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.~~

~~(2) The zoning administrator shall do all of the following:~~

~~(a) Provide necessary forms and applications and receive and process applications.~~

~~(b) Determine and verify zoning compliance when the applicant's plans are found to conform with the provisions of these rules.~~

~~(c) Conduct site inspections to ensure compliance with these rules.~~

~~(d) Issue any authorized permits and certificates of zoning compliance.~~

~~(e) Identify and record information relative to nonconformities.~~

~~(f) Maintain files of applications, permits, and other relevant documents.~~

~~(g) Schedule meetings and hearings for, and provide assistance to, the zoning review board.~~

~~(h) Act on variances as permitted by the provisions of R 281.139(3).~~

~~(3) The zoning review board shall do all of the following:~~

~~(a) Adopt rules of procedure that govern the transaction of its business.~~

~~(b) Act upon requests for special use permits.~~

~~(c) Act on certain dimensional and land use variances pursuant to the provisions of R 281.139.~~

~~(d) Act on the interpretation of the official zoning map pursuant to the provisions of R 281.135(2)(g).~~

~~(4) In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following entities:~~

~~(a) Affected townships and counties.~~

~~(b) Soil conservation districts.~~

~~(c) Property owners' associations.~~

~~(d) Other interested local organizations and citizens.~~

~~(5) The commission shall request each affected township to appoint 1 person to represent its interest on matters within its jurisdiction. The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The commission shall request that each affected soil conservation district appoint 1 person to represent its interest on matters within its jurisdiction. Representatives who are appointed pursuant to this rule shall vote only on those matters within~~

their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.

~~(6) In accord with procedures specified in subrule (5) of this rule, the commission shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.~~

~~(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.~~

Rule 91 (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 150 feet from the ordinary high-water mark on the mainstream and 100 feet on all designated tributaries except as described in R 281.57.

(ii) The setback may be decreased 1 foot for every 1 foot of rise in bank height to a minimum of 100 feet from the ordinary high-water mark on the mainstream and to a minimum of 75 feet from the ordinary high-water mark on all other designated tributaries.

(iii) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iv) Building shall not take place on land that is subject to flooding or in any wetland area.

(v) The natural contour of the face and crest of the bluff shall not be altered.

(vi) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to the provisions of R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field must meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Rifle river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, not located less than 100

feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Rifle river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after April 24, 1984, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On the mainstream, has at least 200 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 200 feet wide at the minimum building setback line.

(iii) On designated tributaries, has at least 150 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 150 feet wide at the minimum building setback line.

(iv) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(v) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(vi) A lot that exists on April 24, 1984, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after April 24, 1984, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Rifle river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on

each side of the Rifle river mainstream. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

~~R 281.142 Appeals; contested cases.~~

~~Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

~~R 281.143 Violations; effect; remedies.~~

~~Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates the provisions of these rules. The commission shall not waive any of its rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to the provisions of these rules is deemed invalid from the date of the authorization.~~

~~(2) In addition to all other remedies, the commission may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.~~

~~R 281.144 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.~~

~~Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.132.~~

~~(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:~~

~~(a) The county register of deeds.~~

~~(b) Township and county clerks.~~

~~(c) The local building inspector.~~

~~(d) Local soil erosion and sedimentation control enforcement agencies.~~

~~(e) The soil conservation district.~~

~~(3) Upon approval by the director, a local zoning ordinance that meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance~~

~~becomes inapplicable to the land area encompassed by the Betsie river natural river district through court action or for any other reason, these rules shall apply.~~

~~R 281.145 Rescission.~~

~~Rule 15. R 281.31 to R 281.41 of the Michigan Administrative Code, appearing on pages 828 to 836 of the 1979 Michigan Administrative Code, are rescinded.~~

R 281.150 Flat river system boundaries.

Rule 100. The boundaries of the Flat river natural river district shall be as described in these rules and as depicted on the certified Flat river natural river zoning map with an effective date of June 21, 1984. The Flat river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the Flat river from the M-46/M-66 bridge in section 15, T12N, R7W to the northern limits of the city of Lowell in section 35, T7N, R9W, excluding those portions that flow through the incorporated city limits of Greenville and Belding.

(b) West Branch creek from its source in section 18, T11N, R8W to its confluence with the Flat river.

(c) Clear creek from Lincoln lake avenue in section 27, T10N, R9W to its confluence with Coopers creek.

(d) Coopers creek from Lincoln lake avenue, in section 34, T10N, R9W to its confluence with the Flat river.

(e) Wabasis creek from Mills avenue in section 24, T9N, R9W to its confluence with the Flat river.

(f) Dickerson creek from Sidney road section 18, T10N, R7W to its confluence with the Flat river.

(g) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (f) of this rule.

(h) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (g) of this rule.

R 281.151 Definitions Flat river system principal uses; natural vegetation strip.

~~Rule 1. As used in these rules:~~

~~(a) "Applicant" means a person who requests on proper forms and pursuant to proper procedures, a zoning permit, special exception permit, or variance.~~

~~(b) "Appurtenance" means a structure that is incidental to a dwelling, including, but not limited to, garages, private access roads, pump houses, wells, sanitary facilities, and electrical service lines.~~

~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~

~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~

~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision, as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~

~~(f) "Commission" means the natural resources commission.~~

- ~~(g) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~
- ~~(h) "Director" means the director of the department of natural resources.~~
- ~~(i) "Family" means either of the following:~~
 - ~~(i) One or more persons who are related by blood, legal adoption, or marriage and who occupy a single family dwelling unit with not more than 3 other persons.~~
 - ~~(ii) Not more than 5 unrelated persons who occupy a single family dwelling unit.~~
- ~~(j) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.~~
- ~~(k) "Front" means that side of a lot abutting the river's edge of the mainstream or tributary.~~
- ~~(l) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~
- ~~(m) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules, or a lot or parcel described by metes and bounds which has been recorded as required by law.~~
- ~~(n) "Natural river district" means the Huron river natural river district as described in R 281.153(1).~~
- ~~(o) "Ordinary high water mark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~
- ~~(p) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.~~
- ~~(q) "River's edge" means the ordinary high water mark as used in Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (o) of this rule.~~
- ~~(r) "Setback" means the horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~
- ~~(s) "Single family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~
- ~~(t) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~
- ~~(u) "Structure" means anything that is constructed, erected, or moved to or from any premise which is located above, on, or below the ground, including, but not limited to, roads, signs, billboards, and mobile homes.~~

~~Temporary recreational facilities, including, but not limited to, tents, camper trailers, and recreation vehicles are not considered structures when used less than 30 days per year and located landward of the natural vegetation strip.~~
- ~~(v) "Zoning administrator" means the administrator of these rules who is appointed by the natural resources commission.~~
- ~~(w) "Zoning permit" means a standard form which is issued by the zoning administrator upon a determination that the proposed construction and use of land and buildings and structures thereon is in compliance with all provisions of these rules.~~

~~(x) "Zoning review board" means a group of not less than 5 nor more than 9 people which includes not less than 3 local representatives and 1 department of natural resources representative and which is appointed by the commission to act upon requests for special exceptions.~~

Rule 101 (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 100 feet from the ordinary high-water mark on the mainstream and all designated tributaries, except as described in R 281.56 (7), or shall be not less than 25 feet from the 100-year floodplain line, whichever is the greater distance from the river's edge.

(ii) A dwelling shall be set back not less than 50 feet from the top of a bluff.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark on the mainstream and all designated tributaries and not less than 100 feet from any surface or subsurface drain that discharges into the Flat river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) The septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Flat river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after June 21, 1984, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 100 feet of river frontage, unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 100 feet wide at the minimum building setback line.

(iii) Contains at least 30,000 square feet of area within the natural river district. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to the standards in this rule.

(v) A lot that exists on June 21, 1984, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after June 21, 1984, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Flat river natural river district, a natural vegetation strip that includes the river and all lands within 25 feet of the ordinary high-water mark shall be maintained on each side of the Flat river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

~~R 281.152 Purpose.~~

~~Rule 2. The commission, on its own motion, in order to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Huron river, a designated natural river, promulgates these zoning rules whose purposes are as follows:~~

~~(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to unwise development patterns within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.~~

~~(b) To protect the free-flowing condition, fish and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Huron river and adjoining land.~~

~~(c) To prevent flood damage due to interference with natural floodplain characteristics by excluding developments which are vulnerable to flood damages and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~

- ~~(d) To provide for residential and other compatible, permitted uses that complement the natural characteristics of the natural river system.~~
- ~~(e) To protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~

~~R 281.153 Boundaries; rules of construction; display and filing of zoning map; effect of zoning rules.~~

~~Rule 3. (1) The boundaries of the Huron river natural river district shall be as described in these rules and as depicted on the certified Huron river natural river zoning map. The Huron river natural river district comprises an area which is described as follows:~~

- ~~(a) The mainstream of the Huron river from Kent lake dam downstream to the western edge of section 32 of Hamburg township, Livingston county, excluding Strawberry, Gallagher, Loon, which is also known as Long or Little Gallagher, and the 2 Whitewood lakes; and from John Flook dam downstream to the Scio-Ann Arbor township line in Washtenaw county, excluding the incorporated village of Dexter.~~
- ~~(b) Davis creek, which is also called the southeast branch of the Huron river, Livingston county, Green Oak township, from the outfall of Sandy Bottom lake to its confluence with the Huron river.~~
- ~~(c) Arms creek, Washtenaw county, Webster township, from the confluence of the 2 branches in section 10 to its confluence with the Huron river.~~
- ~~(d) Mill creek, Washtenaw county, Scio township, from Parker road downstream to the incorporated village limits of Dexter.~~
- ~~(e) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (d) of this subrule.~~
- ~~(2) Certified copies of the Huron river natural river zoning map shall be filed with the local tax assessing officers and with the state tax commission, and additional display copies shall be provided to local officials in the Huron river area, including all of the following:~~
 - ~~(a) County register of deeds.~~
 - ~~(b) Zoning administrator of these rules.~~
 - ~~(c) Local planning, zoning, and health officials.~~
 - ~~(d) Township and county clerks.~~
 - ~~(e) Local building inspector.~~
 - ~~(f) Local soil erosion and sedimentation control enforcement agencies.~~
 - ~~(g) The soil conservation service.~~
 - ~~(h) Huron river watershed council.~~
- ~~(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within the natural river district, except that if these rules impose greater restrictions than those found on such easements, covenants, or deeds, the provisions of these rules shall prevail.~~
- ~~(4) These zoning rules do not permit actions prohibited by other statutes or ordinances, including zoning ordinances, which are applicable to the natural river district. Therefore, all of the following provisions apply:~~
 - ~~(a) All earth-changing activities, other than normal landscaping or maintenance, that are undertaken within 500 feet of a lake or stream are subject to the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~

~~(b) All dredge and fill activities and construction of permanent structures lying below the ordinary high water mark are subject to the provisions of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws.~~

~~(c) All development and land uses in the Huron river natural river district are subject to the provisions of appropriate local zoning ordinances, health codes, and building codes, including requirements for permits and approvals.~~

~~(5) If uncertainty exists with respect to the boundaries indicated on the Huron river natural river zoning map, all of the following rules shall apply:~~

~~(a) Boundaries that are indicated as approximately following streets or highways shall be construed to be the center lines of the streets or highways.~~

~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following such lot lines.~~

~~(c) Boundaries that are indicated as approximately following city, township, or county boundary lines shall be construed as following such city, township, or county boundary lines.~~

~~(d) Boundaries that are indicated as approximately following railroad lines shall be construed to be midway between the main tracks.~~

~~(e) Boundaries that are indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official Huron river natural river zoning map. If no distance is given, the dimension shall be determined by the use of the scale shown on the official Huron river natural river zoning map.~~

~~(f) Boundaries that follow the shoreline of a river, stream, lake, or other body of water shall be construed to follow such shoreline and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries that are indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.~~

~~R 281.154 Zoning permits; application; additional requirements.~~

~~Rule 4. (1) A person shall not commence excavation, erection, alteration, or repair on a building or structure, or commence a land use, until a zoning permit has been obtained from the zoning administrator. If the alteration or ordinary maintenance made on a dwelling does not change the character of the structure or land use, and if the total cost does not exceed 5% of the market value of the structure in any 12-month period, the owner of the structure or land is exempt from obtaining a zoning permit, but may be required to obtain a local building permit from the appropriate local building inspector.~~

~~(2) A written application for a zoning permit shall be filed with the zoning administrator. All of the following information shall be submitted with an application for a zoning permit:~~

~~(a) Two copies of a site plan which give accurate dimensions on either a scale drawing or a rough sketch and which contain all of the following information:~~

~~(i) The location on the lot of all existing and proposed structures.~~

~~(ii) The existing or intended use of the structure.~~

~~(iii) The generalized vegetative cover.~~

~~(iv) The lines and dimensions of the lot to be used.~~

~~(b) Evidence of ownership of all property that is affected by the coverage of the permit.~~

~~(c) Evidence that all required federal, state, county, and township licenses or permits have been acquired, or that applications have been filed for the required licenses or permits.~~

~~(d) Other information, as required by the zoning administrator, which is necessary to carry out the intent and provisions of these rules.~~

~~(3) One copy of both the plans and the specifications shall be filed and retained by the zoning administrator, and the other copy shall be delivered to the applicant when the zoning~~

administrator has approved the application, completed the site inspection, and issued the zoning permit.

To insure that new land uses in the natural river district are in conformance with these rules, before beginning construction or commencing a land use, the applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

Failure to obtain and display a permit is a violation of these rules.

~~(4) Within 30 days of receipt of a completed application, the zoning administrator shall render a decision to issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(5) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of time not to exceed 6 months. Any subsequent extensions shall have the written approval of the zoning review board.~~

~~R 281.155 Subdivision of land; plats with preliminary approval.~~

~~Rule 5. (1) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrule (2) of this rule.~~

~~(2) Proposed lots which have preliminary plat approval pursuant to Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.159.~~

~~R 281.156 Permitted uses.~~

~~Rule 6. (1) The following uses are permitted by the owner upon the owner's property within the natural river district, subject to the limitations and requirements outlined in these zoning rules, local ordinances, and other applicable statutes:~~

~~(a) Private camping and other recreational activities which do not require the installation of permanent structures and which are outside of the natural vegetation strip.~~

~~(b) The operation of watercraft, subject to the limitations of local ordinances established under the authority of Act No. 303 of the Public Acts of 1967, as amended, being S281.1001 et seq. of the Michigan Compiled Laws.~~

~~(c) Fishing and hunting in compliance with existing laws and rules.~~

~~(d) Reforestation and other accepted forest management practices, subject to the limitations outlined in R 281.157.~~

~~(e) Normal agricultural activities, if the activities meet the requirements of these rules, and if the bureau of environmental protection of the department of natural resources determines that such activities do not contribute to stream degradation.~~

~~(f) The operation of licensed motor vehicles on dedicated public roads or access roads to private single family dwellings.~~

~~(g) Off road operation of emergency and public utility maintenance vehicles.~~

~~(h) Private footpaths that are constructed by the landowner of natural materials to facilitate permitted uses.~~

~~(2) The following uses are permitted upon prior approval of the zoning administrator:~~

~~(a) One single family dwelling and appurtenances on a lot not less than 150 front feet wide, subject to the following limitations:~~

- ~~(i) On the designated portion of the mainstream, new buildings and appurtenances shall be required to set back a minimum of 125 feet from the ordinary high water mark, except that the setback may be decreased 10 feet for every 10-foot rise in bank height to a minimum of 75 feet from the ordinary high water mark.~~
- ~~(ii) On the sections of Arms, Davis, and Mill creeks within the natural river zoning district, new buildings and appurtenances shall be required to set back a minimum of 50 feet from the ordinary high water mark.~~
- ~~(iii) New structures shall be set back not less than 50 feet from the top of the bluff on the cutting edges of the river and tributaries, or 25 feet from the top of the bluff on the noncutting edge of the stream.~~
- ~~(iv) Setback shall be not less than 15 feet from side lot lines and not less than 25 feet from the right-of-way of a public road.~~
- ~~(v) New structures shall not be located on land that is subject to flooding.~~
- ~~(b) Plats, if the minimum setbacks and lot width requirements specified in subdivision (a) of this subrule are met.~~
- ~~(c) Private boat docks that are not more than 6 feet in width or 20 feet in length, with not more than 4 feet of the dock extending over the water, if they are designed, constructed, and maintained with indigenous natural materials, and if a permit is issued under the authority of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws.~~
- ~~(d) Mining and extracting industries which are located more than 300 feet from the ordinary high water mark, if they are constructed and operated pursuant to applicable local ordinances and state laws and rules.~~
- ~~(e) Utility lines to service private single-family dwellings.~~
- ~~(f) Utility transmission lines on lands or interests in real property which are continuously owned by a utility from January 1, 1971, subject to review and approval by the commission.~~
- ~~(g) Disposal fields and septic tanks which are located not less than 125 feet from the ordinary high water mark or on lands that are not subject to flooding, whichever distance is greater, and which are in conformance with local county health codes and these rules. In addition, a septic tank or absorption field shall not be closer than 50 feet to any surface or subsurface drainage system emptying into the Huron river or its designated tributaries.~~
- ~~(h) Land alteration, such as grading, dredging, and filling of the land surface, unless the high-groundwater table is within 6 feet of the land surface, if the activities meet all of the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws, and Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and if approval is granted by the local soil erosion and sedimentation control enforcement agency and the department of natural resources.~~
- ~~(i) Signs and outdoor advertising devices shall meet all of the following requirements:~~
 - ~~(i) They shall be related to permitted uses.~~
 - ~~(ii) For residential uses, signs shall not be larger than 1 square foot in area and shall not be posted more than 1 per 100 feet or 1 sign at the upstream and downstream corner of the 1 lot; however, 1 temporary real estate "for sale" sign which does not exceed 4 square feet in area shall be allowed on a parcel of land.~~
 - ~~(iii) For commercial uses, 1 sign per establishment which does not exceed 4 square feet is allowed.~~
 - ~~(iv) They shall not be illuminated by a neon light or flashing device.~~
 - ~~(v) They shall not be attached to a tree or shrub.~~
 - ~~(j) Other uses for which an applicant is granted a permit by the zoning administrator pursuant to R 281.158, R 281.159, and R 281.161.~~

~~R 281.157 Natural vegetation strip.~~

~~Rule 7. Within the natural river district, a 50-foot minimum restrictive cutting belt shall be maintained on each side of the mainstream of the Huron river and on Arms, Davis, and Mill creeks. Trees and shrubs may be pruned for a filtered view of the river upon approval of the zoning administrator or the area forester, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to both of the following provisions:~~

- ~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak, may be removed.~~
- ~~(b) Selected removal or trimming of trees for timber harvest, access or woodlot improvement, landscaping, or public utility lines to service private single family dwellings is permitted upon approval of the area forester or zoning administrator.~~

~~R 281.158 Special exception permits.~~

~~Rule 8. (1) Special exception permits may be granted to allow a use in the natural river district which is specifically permitted by R 281.156, if implementation of that use does not contravene the purposes of these rules as specified in R 281.152.~~

~~(2) Application for a special exception permit shall be made on a form provided by the zoning administrator.~~

~~(3) Upon reviewing an application for a special exception permit, the zoning review board, at any time before rendering a decision thereon, shall require the applicant to furnish all of the following information which the zoning review board deems necessary for determining the suitability of the particular site for the proposed use:~~

- ~~(a) A detailed description of the proposed activity or use.~~
- ~~(b) A surface view plan which gives accurate dimensions on either a scale drawing or a rough sketch and which shows all of the following:~~
 - ~~(i) Elevations or contours of the ground, including existing earth fills.~~
 - ~~(ii) Generalized vegetative cover.~~
 - ~~(iii) The size, location, and spatial arrangement of all proposed and existing structures on the site.~~
 - ~~(iv) The location and elevations of streets, access roads, and water supply and sanitary facilities.~~
- ~~(c) Photographs that show existing land uses and vegetation upstream and downstream from the proposed use.~~
- ~~(d) Valley cross sections that show the natural stream channel, streambanks, high water marks, flood marks, if known, and locations of proposed developments.~~
- ~~(e) All other information which is deemed relevant by the zoning administrator and which is necessary to carry out the intent and provisions of these rules.~~
- ~~(4) Before considering applications, the zoning review board shall give notice, by certified mail, to all of the following:~~
 - ~~(a) Property owners whose property is within 500 feet of the proposed use as shown on the current tax assessment rolls.~~
 - ~~(b) The appropriate local officials and department of natural resources personnel, including all of the following:~~
 - ~~(i) The township supervisor.~~
 - ~~(ii) The township building inspector.~~
 - ~~(iii) The county health officer.~~
 - ~~(iv) The local soil erosion and sedimentation control enforcement agency.~~
 - ~~(v) County and township planning and zoning officials.~~

- ~~(vi) The soil conservation service.~~
- ~~(vii) The regional office and natural rivers section of the department of natural resources.~~
- ~~(viii) The Huron river watershed council.~~
- ~~(c) Any other interested parties who request that they be notified of such applications in the natural river district.~~
- ~~(5) In reviewing an application, the zoning review board shall consider all of the following:~~
 - ~~(a) All relevant factors specified in these rules in light of the spirit and intent of the purposes specified in R 281.152.~~
 - ~~(b) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact, together with a description of the title history, shall be included in the hearing evidence.~~
 - ~~(c) Increases in flood levels and flood damages that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences, and other relevant factors within the terms of these rules.~~
 - ~~(d) The cumulative effect upon the natural river district from the potential development of holdings in a legal position similar to the applicant's, if the applicant's request is approved by the zoning review board.~~
 - ~~(e) Reasonable alternatives that are available to the applicant.~~
- ~~(6) In weighing the applicant's request, consideration of public health, safety, and welfare shall prevail, unless private injury is proven by a preponderance of the evidence to be so great as to override the public interest.~~
- ~~(7) A requested use shall not be granted if the zoning review board determines that the requested use poses a substantial hazard to life or to public or private property rights.~~
- ~~(8) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 30 days after its receipt, except that if public hearings are held or if additional information is required pursuant to subrule (3) of this rule, the zoning review board shall render a decision within 30 days following the hearings or upon receipt of the last requested item of information.~~
- ~~(9) The zoning review board shall attach such conditions to the granting of a special exception permit as are necessary to further the purposes of these rules.~~
- ~~(10) A special exception use shall adhere strictly to the terms of the special exception permit. A special exception permit that does not adhere strictly to the terms of the permit may be revoked by the zoning administrator.~~

~~R 281.159 Substandard lots of record.~~

- ~~Rule 9. (1) The zoning administrator, in compliance with the terms of this subrule, shall grant a permit if, because of either of the following circumstances, a proposed structure cannot be erected on a lot of record or a lot described in a deed or land contract executed and delivered before the effective date of this rule:~~
 - ~~(a) The lot is of insufficient width, depth, or area.~~
 - ~~(b) Physical limitations exist on an existing lot or parcel.~~
- ~~(2) The zoning administrator shall ensure that all structures are located to best meet the objectives and purposes of these rules, the adopted Huron river natural river plan, and Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws.~~
- ~~(3) The zoning administrator shall determine if a proposed structure on a lot of record or on a lot described in a deed or land contract executed and delivered before the effective date of these~~

rules cannot conform to the standards listed in R 281.156(2)(a) and is, therefore, ineligible for consideration for use under R 281.156.

~~(4) A written application for a zoning permit on a lot of record shall be filed with the zoning administrator. The same information required in R 281.154(2) shall be submitted with an application.~~

~~(5) The zoning administrator shall grant a zoning permit for the use of a substandard lot of record only upon a showing of all of the following:~~

~~(a) Granting the permit is not contrary to the public interest.~~

~~(b) The permit does not allow the establishment of a use not otherwise permitted by these rules.~~

~~(c) The permit applies only to the property under the control of the applicant.~~

~~(d) The practical difficulties claimed by the applicant are not the result of actions taken by the applicant.~~

~~(e) Granting the permit poses no substantial hazard to life or to public or private property rights, secures public safety, and does substantial justice.~~

~~(f) Granting the permit will not result in an increase of flood levels or risk of flood damage to other lands.~~

~~(g) The lot shall be developed pursuant to department of natural resources requirements under Act No. 245 of the Public Acts of 1929, as amended, being S323.1 et seq. of the Michigan Compiled Laws.~~

~~(h) Use of the lot will not significantly impair existing water quality, vegetative cover, fisheries, or wildlife habitat or increase the risk of erosion.~~

~~(i) The substandard lot size shall be the minimum dimensional reduction necessary to achieve a reasonable use of the land, after evaluation of alternative dimensional arrangements and permitted land uses available to the applicant, given the peculiar characteristics of the lot and circumstances surrounding the request. Alternatives shall be examined in light of the applicant's entire contiguous holdings and not merely a single lot or the portion within the natural river area. If dimensional requirements may be more nearly met through lot combination of contiguous holdings, the zoning administrator may so require.~~

~~(j) The permit provides that no fill shall be placed within the natural vegetation strip and that the approval of both the appropriate county or district health department and the soil erosion and sedimentation control enforcement agency shall be secured.~~

~~(k) The permit provides conditions necessary to insure proper development of the substandard lot pursuant to these rules.~~

~~(6) A special exception permit is required if a dimensional reduction of more than 50% of any of the standards listed in R 281.156(2)(a) is necessary to achieve reasonable use of the land. The zoning review board shall base its decision upon the standards set forth in R 281.158(5).~~

~~(7) The zoning administrator may confer with, and seek the advice of, the zoning review board, personnel of the Michigan department of natural resources, and other federal, state and local officials to determine the possible effects of, and a suitable location for, a proposed structure.~~

~~(8) One copy of the plans, specifications, and the zoning permit, with conditions attached, shall be filed and retained by the zoning administrator, and another copy of each shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued a zoning permit.~~

~~(9) The applicant may appeal any decision of the zoning administrator or any conditions attached to a zoning permit to the zoning review board.~~

R 281.160 Nonconforming uses Pigeon river system boundaries.

~~Rule 10. (1) The lawful use of any land or structure which is in existence on the effective date of these rules may be continued although the use does not conform to these rules.~~

~~(2) Routine or normal repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition are permitted. Remodeling of nonconforming structures within the confines of the existing foundation and elevations is permitted, if the structure is neither enlarged nor extended nor its use changed.~~

~~(3) A special exception permit is required for the restoration of a nonconforming building or structure which is damaged or destroyed by more than 50% of its value due to flood, fire, or other means. In determining whether 50% of the value has been destroyed, the zoning review board shall use appraised replacement costs, as determined by a qualified individual appointed by the zoning review board, and shall compare the value of the part destroyed to the value of the total operating unit where there are several buildings or structures which are used together by the landowner as a single operating unit. A request for a permit to restore a nonconforming building or structure damaged or destroyed by more than 50% of its value shall be approved if all of the following conditions exist:~~

~~(a) The land on which the building or structure is situated is not subject to flooding.~~

~~(b) The continued use of a nonconforming building or structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the use of the building or structure is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(c) The continued use conforms with local county health codes and is approved by the local county health department.~~

~~(d) The continued use conforms with local building codes and is approved by the local building inspector.~~

~~(e) Restoration of a damaged building or structure, if approved by the zoning review board, shall be started within 1 year from the time of damage.~~

~~(4) A nonconforming use may be changed to a use of a like or similar character if the new use more closely conforms to the rules of the natural river district.~~

~~(5) A nonconforming use of any land or structure shall not be enlarged or extended without a special exception permit granted upon consideration of the factors outlined in subrule (3) of this rule. An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation which provides overnight facilities and which does not exceed 12 units may be approved by the zoning review board if the owner submits to the zoning review board a detailed description of the proposed enlargement or extension, together with a site plan showing the location of all new structures or uses, and if the zoning review board determines that all of the following conditions exist:~~

~~(a) The land on which the nonconforming use is situated is not subject to flooding.~~

~~(b) The enlargement or extension of the nonconforming use does not lead to accelerated bank erosion or other material degradation of the river resource, and the enlargement or extension is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(c) The enlargement or extended use conforms with local county health codes and is approved by the local county health department.~~

~~(d) The enlarged or extended use conforms with local building codes and is approved by the local building inspector.~~

~~(e) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.152.~~

~~(6) The substitution of a nonconforming use with another nonconforming use may be made if a special exception permit is granted, based upon consideration of the factors outlined in subrule~~

~~(5) of this rule, to ensure that the changed use conforms as closely as possible to the purposes of these rules as specified in R 281.152.~~

~~(7) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.~~

~~(8) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on the owner's property.~~

~~Certification of a prior nonconforming use shall be granted if the use meets the criteria of this rule and the common law criteria of nonconforming uses of this state.~~

Rule 110. The boundaries of the Pigeon river natural river district shall be as described in these rules and as depicted on the certified Pigeon river natural river zoning map with an effective date of February 13, 1985. The Pigeon river natural river zoning district comprises an area that is described as follows:

(a) The mainstream of the Pigeon river from its source in section 30, T31N, R2W to the Hackleburg road (East Mullett Lake road) bridge.

(b) Unnamed stream from its source in section 31, T31N, R2W to its confluence with the Pigeon river.

(c) Unnamed stream from its source in section 30, T31N, R2W to its confluence with the Pigeon river.

(d) Unnamed stream from its source in section 5, T30N, R2W to its confluence with the Pigeon river

(e) Unnamed stream from its source in section 28, T31N, R2W to its confluence with the Pigeon river.

(f) Slade creek from its sources in sections 27, 34 and 35, T31N, R2W to its confluence with the Pigeon river

(g) Duck creek from the south line of section 2, T30N, R2W to its confluence with the Pigeon river.

(h) Unnamed stream from its source in section 24, T31N, R2W to its confluence with the Pigeon river.

(i) Grass lake outlet from the outlet of Grass lake in section 5, T32N, R1W to its confluence with the Pigeon river.

(j) Unnamed stream from its source in section 29, T33N, R1W to its confluence with the Pigeon river.

(k) Cornwall creek from its source in section 35, T33N, R1W to its confluence with the Pigeon river.

(l) Grindstone creek from its source in section 17, T33N, R1W to its confluence with the Pigeon river.

(m) McIntosh creek from its sources in sections 28 and 33, T34N, R1W to its confluence with the Pigeon river.

(n) Nelson creek from its source in section 29, T33N, R1W to its confluence with the Pigeon river.

(o) The Little Pigeon river from its source in section 1, T32N, R2W to its confluence with the Pigeon river.

(p) Molby creek from its sources in sections 24 and 25, T33N, R2W to its confluence with the Little Pigeon river.

(q) Burrows creek from its source in section 14, T33N, R2W to its confluence with the Little Pigeon river.

(r) Unnamed stream from its source in section 12, T33N, R2W to its confluence with the Little Pigeon river.

(s) Unnamed stream from its source in section 23, T34N, R2W to its confluence with the Pigeon river

(t) Wilkes creek from its source in section 16, T34N, R1W to its confluence with the Pigeon river.

(u) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (t) of this rule.

(v) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (u) of this rule.

~~R 281.161 Appeals; contested cases~~ **Pigeon river system principal uses; natural vegetation strip.**

~~Rule 11. An aggrieved party who contests a decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

Rule 111. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback not less than 200 feet from the ordinary high-water mark on the mainstream and 150 feet on all designated tributaries, except as described in R 281.57.

(ii) A dwelling set back not less 50 feet from the top of a bluff.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) The septic tank and disposal field meet local health department standards.

(ii) The disposal field shall be located not less than 150 feet from the ordinary high-water mark on the mainstream and all designated tributaries and not less than 50 feet from any surface or subsurface drain that discharges into the Pigeon river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) The septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, not located less than 100

feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Pigeon river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 75 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after February 13, 1985, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On the mainstream, has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 200 feet wide at the minimum building setback line. On designated tributaries, has at least 150 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and is at least 150 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on February 13, 1985, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after February 13, 1985, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Pigeon river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Pigeon river mainstream. A restrictive cutting belt that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on each side of all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

~~R 281.162 Zoning administrator and zoning review board; appointment; duties.~~

~~Rule 12. The commission shall appoint a zoning administrator and a zoning review board to act as its agents to enforce these rules. The duties of the zoning review board and zoning administrator include, but are not limited to, all of the following:~~

- ~~(a) Receiving and processing applications for zoning permits, special exception permits, petitions for appeals, requests for changes, amendments, and supplements.~~
- ~~(b) Inspecting sites.~~
- ~~(c) Issuing or denying zoning permits as outlined in these rules.~~
- ~~(d) Assisting with other matters requiring a decision by the commission.~~

~~R 281.163 Violations.~~

~~Rule 13. (1) An alleged violation shall be inspected by the staff of the department and, if it is found that a violation exists, the department shall order the applicant, in writing, to correct all conditions found to be in violation of these rules.~~

~~(2) The owner of a building, structure, or land which violates these rules is subject to the provisions of section 13 of Act No. 231 of the Public Acts of 1970, being S281.773 of the Michigan Compiled Laws.~~

~~R 281.164 Boundaries and permitted uses; changes, amendments, and supplements.~~

~~Rule. 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.152.~~

~~(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws.~~

~~(3) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following:~~

- ~~(a) The county register of deeds.~~
- ~~(b) The zoning administrator of these rules.~~
- ~~(c) Local planning, zoning and health officials.~~
- ~~(d) Township and county clerks.~~
- ~~(e) The local building inspector.~~
- ~~(f) Local soil erosion and sedimentation control enforcement agencies.~~
- ~~(g) The soil conservation service.~~
- ~~(h) Public utility companies which provide service to riverfront property owners affected by these rules.~~
- ~~(i) Huron river watershed council.~~

~~(4) Upon approval by the director, a local zoning ordinance which meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Huron river natural river district through court action or for any other reason, these rules shall apply.~~

R 281.170 Au Sable River system boundaries.

Rule 120. The boundaries of the Au Sable river natural river district shall be as described in these rules and as depicted on the certified Au Sable river natural river zoning map with an effective date of August 15, 1990. The Au Sable river natural river zoning district comprises an area which is described as follows:

(a) The Au Sable river from the confluence of Kolka creek and Bradford creek in section 23, T28N, R4W to Loud dam in section 21, T24N, R6E.

(b) Kolka creek from the outfall of Lynn lake in section 26, T29N, R4W to its confluence with Bradford creek in section 23, T28N, R4W.

(c) Bradford creek from the outfall of Big Bradford lake in section 6, T28N, R3W to its confluence with Kolka creek in section 23, T28N, R4W.

(d) East Branch Au Sable river, from the outfall of Barnes lake in section 7, T28N, R2W to its confluence with the Au Sable river.

(e) South Branch Au Sable river, from highway M-76 in section 5 T23N, R1W to its confluence with the Au Sable river.

(f) Douglas creek from its source in section 16, T25N, R1W to its confluence with the South branch Au Sable river.

(g) Thayer creek from its source in section 16, T25N, R2W to its confluence with the South branch Au Sable river.

(h) Hudson creek from its source in section 26, T24N, R2W to its confluence with the South branch Au Sable river.

(i) Robinson creek from its source in section 7, T23N, R2W to its confluence with the South branch Au Sable river.

(j) Beaver creek from its source in section 25, T25N, R4W to its confluence with the South branch Au Sable river.

(k) East creek from its source in section 13, T24N, R1W to its confluence with the South branch Au Sable river.

(l) South creek from its source in section 35, T24N, R1W to its confluence with the South branch Au Sable river.

(m) North branch Au Sable river, from Ski Slope drive in section 34, T30N, R3W county to its confluence with the Au Sable river.

(n) Turtle creek from the outfall of Turtle lake in section 33, T30N, R2W to its confluence with the North branch of the Au Sable.

(o) Chub creek from the outfall of Bridge lake in section 23, T29N, R3W to its confluence with the North branch of the Au Sable.

(p) Big creek from the confluence of the east branch of Big creek and the west branch of Big creek in section 23, T27N, R1W to its confluence with the north branch of the Au Sable river.

- (q) West branch, Big creek, from the outfall of Caulkins lake in section 14, T29N, R1W to its confluence with the east branch of Big creek in section 23, T27N, R1W.
- (r) Middle branch, Big creek, from the outfall of West Twin lake in section 32, T29N, R1E to its confluence with the east branch of Big creek in section 13, T27N, R1W.
- (s) East branch, Big creek, from the north line of section 27, T28N, R1E to its confluence with the west branch of Big creek in section 23, T27N, R1W.
- (t) Big creek from the confluence of the east branch of Big creek and the west branch of Big creek in section 24, T26N, R1E to its confluence with the Au Sable river in section 1, T26N, R1E.
- (u) West branch, Big creek, from its source in section 1, T24N, R1E to its confluence with the east branch of Big creek in section 24, T26N, R1E.
- (v) East branch, Big creek, from its source in section 10, T25N, R2E to its confluence with the west branch of Big creek in section 24, T26N, R1E.
- (w) Sohn creek from its source in section 20, T27N, R1E to its confluence with the Au Sable river.
- (x) Beaver creek from the east line of section 26, T27N, R1E to its confluence with the Au Sable river.
- (y) Wolf creek from its source in section 19, T26N, R3E to its confluence with the Au Sable river.
- (z) Loud creek from its source in section 29, T26N, R3E to its confluence with the Au Sable river.
- (aa) Perry creek from the outfall of Perry lake in section 9, T27N, R3E to its confluence with the Au Sable river.
- (bb) Comins creek from its source in section 27, T27N, R3E to its confluence with the Au Sable river.
- (cc) Glennie creek from its source in section 30, T27N, R4E to its confluence with the Au Sable river.
- (dd) Nine mile creek from its source in section 28, T26N, R4E to its confluence with the Au Sable river.
- (ee) Blockhouse creek from its source in section 28, T27N, R4E to its confluence with the Au Sable river.
- (ff) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (ee) of this rule.
- (gg) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (ff) of this rule.

R 281.171 Definitions Au Sable river system principal uses; natural vegetation strip.

~~Rule 1. As used in these rules:~~

- ~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.~~
- ~~(b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:~~
 - ~~(i) Garages.~~
 - ~~(ii) Residential storage sheds.~~
 - ~~(iii) Barns and other agricultural storage and livestock structures.~~
 - ~~(iv) Pump houses.~~

- ~~(v) Private access roads.~~
 - ~~(vi) Electrical service lines.~~
 - ~~(c) "Bluff" means a bank that rises at a slope of 33 degrees or greater from within 10 feet of the river's edge. The crest of the bluff is the first riverward facing area at least 100 feet wide (approximately parallel to the river) that breaks to a slope of less than 18 degrees for a distance away from the river of at least 25 feet.~~
 - ~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer 1972 PA 230, MCL 125.1501 and known as the state construction code act of 1972.~~
 - ~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as required by 1972 PA 230, MCL 125.1501~~
 - ~~(f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.~~
 - ~~(g) "Commission" means the natural resources commission.~~
 - ~~(h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~
 - ~~(i) "Director" means the director of the department of natural resources.~~
 - ~~(j) "Enclosed ground floor living area" means the area of the ground covered by a dwelling, including enclosed porches and attached garages, but not including open porches, decks, or patios.~~
 - ~~(k) "Family" means either of the following:~~
 - ~~(i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2 additional unrelated persons, are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.~~
 - ~~(ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing non-transient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.~~
 - ~~(l) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, serve as an aid to the infiltration of surface runoff, and provide cover to shade the water.~~
- ~~The vegetation need not be so dense as to completely block the river view.~~
- ~~"Filtered view of the river" means no mowing or removal of trees, shrubs or other vegetation.~~
- ~~(m) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (t) of this rule.~~
- ~~(n) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge a 100-year flood.~~
- ~~(o) "Front" means that segment of a lot or parcel closest to or abutting the river's edge of the main stream or tributary.~~
- ~~(p) "Front yard" means setback as provided for in R 281.177.~~
- ~~(q) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home by residents of the dwelling as a use which is clearly incidental and secondary to the use of the home as a dwelling place.~~

- ~~(r) "Home-based occupation" means a gainful occupation where business is conducted off-site but equipment such as logging trucks or well drilling rigs are stored at the home site.~~
- ~~(s) "Impervious surface" means a surface, including paved and unpaved driveways, decks, rooftops, roads, patios, swimming pools and parking lots that does not allow storm water to infiltrate into the ground.~~
- ~~(t) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.~~
- ~~(u) "Lot" means a continuous area or acreage of land that can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~
- ~~(v) "Lot area" means the area inside the lot lines.~~
- ~~(w) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.~~
- ~~(x) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.~~
- ~~(y) "Lot, vacant" means a lot that does not contain a single family dwelling.~~
- ~~(z) "Natural river district" means the Upper Manistee river natural river district as described in R 281.175.~~
- ~~(aa) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~
- ~~(bb) "Rear yard" means that yard opposite the front yard.~~
- ~~(cc) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.~~
- ~~(dd) "River's edge" means the ordinary high watermark as used in Part 301 of 1994 PA 451, and as defined in subdivision (aa) of this rule.~~
- ~~(ee) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~
- ~~(ff) "Single family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains kitchen and bathroom facilities.~~
- ~~(gg) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Part 91 of 1994 PA 451, MCL 282.101.~~
- ~~(hh) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas greater than 24 inches in diameter and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are on site fewer than 30~~

days per year and if they are located landward of the native vegetation buffer or if the facilities are located on a campsite within a campground that is licensed pursuant to 1978 PA 368, MCL 333.1101, if both the individual campsite and the campground were established before the effective date of these rules.

~~(ii) "Wetland" means land characterized by the presence of hydric soils or water at a frequency and duration sufficient to support wetland vegetation or aquatic life as defined in Part 303 of 1994 PA 451, MCL 282.101.~~

~~(jj) "Zoning administrator" means the administrator of these rules who is appointed by the director.~~

~~(kk) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with these rules.~~

~~(ll) "Zoning review board" means a group of 7 people which is appointed by the director to act upon requests as provided for by these rules.~~

Rule 121. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback not less than 200 feet from the ordinary high-water mark on the mainstream, north branch and south branch, and 100 feet on all other designated tributaries, except as described in R 281.57.

(ii) The setback may be decreased 1 foot for every 1 foot rise in bank height to a minimum of 150 feet from the ordinary high-water mark on the mainstream, north branch and south branch, and to a minimum of 75 feet from the ordinary high-water mark on all other designated tributaries.

(iii) A dwelling shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream.

(iv) Building shall not take place on land that is subject to flooding or in any wetland area.

(v) The natural contour of the face and crest of the bluff shall not be altered.

(vi) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 100 feet from any surface or subsurface drain that discharges into the Au Sable river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, located not less than 100

feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Au Sable river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, except the north branch and south branch, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after August 15, 1990, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) On the mainstream, north branch and south branch, has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and at least 200 feet wide at the minimum building setback line.

(iii) On all other tributaries, has at least 150 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and at least 150 feet wide at the minimum building setback line.

(iv) Contains at least 50,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(v) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(vi) A lot that exists on August 15, 1990, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after August 15, 1990, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Au Sable river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark shall be maintained on each side of the Au Sable river mainstream, north branch, and south branch. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

~~R 281.172 Purpose; intent; scope.~~

~~Rule 2. (1) The director, on his or her own motion, to implement the intent of Natural Rivers Part 305 of 1994 PA 451, and in the absence of local zoning to protect the Upper Manistee river, a designated natural river, promulgates these rules for the following purposes:~~

- ~~(a) To promote the public health, safety, and general welfare; to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district; and to preserve the values of the natural river district for the benefit of present and future generations.~~
- ~~(b) To protect the free-flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Upper Manistee river and adjoining land.~~
- ~~(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~
- ~~(d) To provide for uses that complement the natural characteristics of the natural river system.~~
- ~~(e) To protect individuals from investing funds in structures that are proposed for location on lands that are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~
- ~~(f) To achieve the goals and objectives of the Upper Manistee river natural river plan.~~
- ~~(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.~~
- ~~(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Natural Rivers Part 305 of 1994 PA 451, and the rules promulgated thereunder, the provisions of Natural Rivers Part 305 of 1994 PA 451 and the rules promulgated thereunder shall apply.~~

~~R 281.173 Construction of language: severability.~~

~~Rule 3. (1) All of the following rules of construction apply to the text of these rules:~~

- ~~(a) A "building" or "structure" includes any part thereof.~~
- ~~(b) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."~~
- ~~(c) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.~~
- ~~(d) The terms "lot" and "parcel" have the same meaning.~~
- ~~(e) Terms not defined in these rules shall have the meanings customarily assigned to them.~~

~~(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.~~

~~R 281.174 Lot size and area; subdivision of land; home and home-based occupations; native vegetation buffer; signs; docks; height of structures; river access stairways; dams; impervious surfaces.~~

~~Rule 4. (1) Unless otherwise provided for in these rules, a lot created after the effective date of these rules shall meet all of the following standards on at least 1 side of the stream that is accessible by a public road or legal easement:~~

~~(a) Have at least 200 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or the parent parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and be at least 200 feet wide at the minimum building setback line.~~

~~(b) Contain at least 1/2 acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.~~

~~(c) Contain at least 80,000 square feet of area within the Natural River District (any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area). If the parent parcel does not have river frontage, and the front line of any newly created parcel is greater than 100 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.~~

~~(d) Have sufficient depth to accommodate the required building setbacks pursuant to R 281.177.~~

~~(2) A lot that exists on the effective date of this rule shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.~~

~~(3) Proposed lots which have preliminary plat approval pursuant to 1967 PA 288, MCL 560.101, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements in R 281.179 and R 281.180.~~

~~(4) Lots of record which are created before the effective date of these rules, and which do not possess sufficient land area or lot width may be used for the purposes described in these rules, subject to the requirements in R 281.179 and R 281.180.~~

~~(5) Home occupations and home-based occupations shall conform to all of the following requirements:~~

~~(a) The use of the dwelling unit, or related structure, for a home occupation or home-based occupation shall be clearly incidental and subordinate to its use for residential purposes.~~

~~(b) Equipment or a process shall not be used in a home occupation or home-based occupation if it creates noise, vibration, fumes, odors, or electrical interference that is detectable to the normal senses off the premises.~~

~~(6) Within the natural river district, a native vegetation buffer that includes the river and all lands within 75 feet of the ordinary high watermark shall be maintained on each side of the Upper Manistee river mainstream and all designated tributaries. Trees and shrubs may be pruned over not more than a 50-foot width for a filtered view of the river, but clear-cutting in the native vegetation buffer is prohibited. The native vegetation buffer is also subject to all of the following provisions:~~

~~(a) Unsafe trees and noxious plants and shrubs, such as poison ivy and poison sumac, may be removed.~~

- ~~(b) The selected removal or trimming of trees for forest management practices or disease and insect control, and clearing of vegetation to the minimum width required for public utility primary electric distribution lines and service lines for permitted uses, is permitted upon approval of the zoning administrator in consultation with local Conservation District staff, if the activity is in keeping with the goals and objectives of the Natural River Plan.~~
- ~~(c) Camping other than low impact tent camping is not permitted in the native vegetation buffer.~~
- ~~(d) Mowing is prohibited in the native vegetation buffer except in areas that had been maintained in a mowed condition prior to adoption of these rules or to establish a footpath to the river not to exceed 4 feet wide.~~
- ~~(e) In the Manistee River mainstream vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel may not be disturbed.~~
- ~~(f) A boardwalk constructed in conjunction with the footpath described in subdivision (d) of this subrule is permitted upon approval of the zoning administrator if it is placed only in areas that are generally too wet to be traversed without significant disturbance of the soils, the boardwalk and supports are constructed of wood, the boardwalk is not more than 3 feet wide and does not include railings, and the top of the boardwalk is not more than 12 inches above grade.~~
- ~~(g) All islands in all stream segments are subject to the native vegetation buffer standards.~~
- ~~(h) A wider native vegetation buffer may be required for certain commercial uses.~~
- ~~(7) Signs for identification, direction, resource information, regulation of use and those related to permitted uses are allowed. Signs for the sale of products or services are prohibited, unless related to a permitted use, located on the site of the permitted use, not located in the native vegetation buffer and not visible from the river. Illuminated signs are prohibited. Signs may be not more than 2 square feet in area. Exceptions include 1 real estate sign not more than 4 square feet outside the native vegetation buffer, and public agencies' signs not larger than 10 square feet, of rustic design and not attached to vegetation. Some public agency signs may need to be larger to warn of impending danger or for interpretative or historic reasons.~~
- ~~(8) Private boat docks shall be in compliance with all of the following requirements:~~
 - ~~(a) Docks shall not be more than 48 square feet in area, with not more than 4 feet of the dock extending over the edge of the river.~~
 - ~~(b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.~~
 - ~~(c) Unless otherwise provided for in these rules, only 1 dock shall be constructed per lot.~~
- ~~(9) Unless otherwise provided in these rules, a structure shall not be more than 2 1/2 stories tall, not including a basement, and not more than 35 feet in height measured from the original surface elevation.~~
- ~~(10) Private river access stairways are permitted upon approval of the zoning administrator if in compliance with all of the following requirements:~~
 - ~~(a) There is no other safe, feasible access to the river without a stairway.~~
 - ~~(b) The stairway is low profile, not more than 4 feet wide and constructed without stairs being recessed into the ground surface unless site and soil conditions dictate that a recessed stairway is more appropriate.~~
 - ~~(c) There are no landings associated with the stairway unless required by building codes, in which case the landings shall be of the minimum number and size required by building codes.~~
 - ~~(d) Not more than 1 handrail is associated with the stairway.~~
 - ~~(e) Only 1 river access stairway is permitted per parcel.~~

- ~~(f) The stairway is constructed using natural materials and is located and maintained to blend with the natural surroundings.~~
- ~~(11) Construction of new dams is prohibited. Reconstruction of a failed dam is permitted under any of the following conditions:~~
 - ~~(a) Reconstruction of a dam destroyed by a catastrophic event such as flood may be reconstructed.~~
 - ~~(b) Reconstruction of a dam that failed due to lack of maintenance or other negligence by the owner or operator is prohibited.~~
 - ~~(c) Reconstruction of a dam that failed due to a catastrophic event shall comply with construction standards in effect at the time of application for replacement.~~
 - ~~(d) Application for reconstruction shall be received within 1 year of destruction.~~
 - ~~(e) A reconstructed dam shall be rebuilt with a height not greater than the original dam height.~~
 - ~~(f) A bottom discharge and fish passage facilities shall be provided for a reconstructed dam where appropriate.~~
 - ~~(g) A request for replacement of a dam destroyed by a catastrophic event shall be handled as a variance request for reconstruction of a destroyed, non-conforming structure.~~
- ~~(12) The maximum percentage of impervious surface permitted on a lot shall be as follows:~~
 - ~~(a) For lots with less than 10,000 square feet of area, not more than 35% of the land surface may be covered by impervious surfaces.~~
 - ~~(b) For lots with between 10,000 square feet and 40,000 square feet of area, not more than 25% of the land surface may be covered by impervious surfaces.~~
 - ~~(c) For lots with between 40,001 square feet and 80,000 square feet of area, not more than 20% of the land surface may be covered by impervious surfaces.~~
 - ~~(d) For lots greater than 80,000 square feet of area, not more than 10% of the land surface may be covered by impervious surfaces.~~

~~R 281.175 Boundaries; interpretation of boundaries; filing of zoning map.~~

- ~~Rule 5. (1) The boundaries of the Upper Manistee river natural river district shall be as described in these rules and as depicted on the certified Upper Manistee river natural river zoning map. The Upper Manistee river natural river zoning district comprises an area that is described as follows:~~
 - ~~(a) The Manistee river mainstream from its sources in Sections 1 and 12 of Mancelona Township, T29N, R5W to the Wexford/Missaukee county line.~~
 - ~~(b) Frenchman's Creek from the Lake Elizabeth Dam in section 30 of Hayes Twp., T29N, R4W to its confluence with the Manistee River.~~
 - ~~(c) Lost Lake Outlet from the outfall of Lost Lake in Section 6 of Frederic Township, T28N, R4W to its confluence with the Manistee River.~~
 - ~~(d) An unnamed stream from its source in Section 13 of Blue Lake Township, T28N, R5W to its confluence with the Manistee River.~~
 - ~~(e) Goose Creek from Cameron Bridge Road in section 27 of Blue Lake Twp., T28N, R5W to its confluence with the Manistee River.~~
 - ~~(f) Portage Creek from the control structure near the outfall of Lake Margrethe, section 8 of Grayling Twp., T26N, R4W to its confluence with the Manistee River, including all braided channels.~~
 - ~~(g) All perennial tributaries to Portage Creek from their sources to their confluence with Portage Creek.~~
 - ~~(h) Clear Creek from its source at Boiling Springs in section 28 of Bear Lake Twp., T26N, R5W to its confluence with the Manistee River.~~

- ~~(i) Black Creek from the outfall of South Black Lake in section 21 of Bear Lake Twp., T27N, R5W to its confluence with the Manistee River, including all braided channels.~~
- ~~(j) All perennial tributaries to Black Creek from their sources to their confluence with Black Creek.~~
- ~~(k) Dempsey Creek from its source in section 19 of Bear Lake Twp., T26N, R5W to its confluence with the Manistee River.~~
- ~~(l) Big Devil Creek from its source in Section 18 of Garfield Township, T25N, R5W to its confluence with the Manistee River.~~
- ~~(m) Big Cannon Creek from its source in section 5 of Norwich Twp., T24N, R5W to its confluence with the Manistee River.~~
- ~~(n) The North Branch of the Manistee River from County Road 612 in section 3 of Excelsior Twp., T27N, R6W to its confluence with the Manistee River.~~
- ~~(o) An unnamed stream from Tower Road in section 25 of Coldsprings Twp., T28N, R6W to its confluence with the North Branch of the Manistee River.~~
- ~~(p) Morrison Creek from its source in section 28 of Excelsior Township, T27N, R6W to its confluence with the North Branch of the Manistee River.~~
- ~~(q) Collar Creek from its source in section 33 of Excelsior Township, T27N, R6W to its confluence with Morrison Creek.~~
- ~~(r) An unnamed stream from its sources in section 26 of Excelsior Township, T27N, R6W to its confluence with Morrison Creek.~~
- ~~(s) All other perennial tributaries to the North Branch of the Manistee River from their sources to their confluence with the North Branch of the Manistee River.~~
- ~~(t) Willow Creek from its source in section 14 of Orange Twp., T26N, R7W to its confluence with the Manistee River.~~
- ~~(u) Pierson Creek from its source in section 12 of Orange Township, T26N, R7W to its confluence with Willow Creek.~~
- ~~(v) Maple Creek from its source in section 22 of Orange Twp., T26N, R7W to its confluence with the Manistee River.~~
- ~~(w) Little Cannon Creek from multiple sources in sections 29, 31 and 32 of Garfield Twp., T25N, R6W to its confluence with the Manistee River.~~
- ~~(x) Silver Creek from its source in section 1 of Pioneer Twp, T24N, R7W to its confluence with Little Cannon Creek.~~
- ~~(y) Waterhole Creek and all tributaries from their multiple sources in Garfield Township, T25N, R7W to the confluence with the Manistee River.~~
- ~~(z) Babcock Creek from its sources in section 33 of Garfield Township, T25N, R 7W to its confluence with the Manistee River.~~
- ~~(aa) Filer Creek from its source in Section 4 of Pioneer Township, T24N, R7W to its confluence with the Manistee River.~~
- ~~(bb) Nelson Creek from its sources in Section 30 of Garfield Township, T25N, R7W to its confluence with the Manistee River.~~
- ~~(cc) Spring Creek from its sources in section 22 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.~~
- ~~(dd) Bourne Creek from its sources in section 29 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.~~
- ~~(ee) Ham Creek from its source in Section 24 of Bloomfield Twp., T24N, R8W to its confluence with the Manistee River, including two tributaries with sources in Sections 3 and 9.~~
- ~~(ff) Gravy Creek from its source in section 5 of Bloomfield Twp., T24N, R8W to its confluence with the Manistee River.~~

~~(gg) Haynes Creek from its source in section 31 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.~~

~~(hh) Hopkins Creek from its source in Section 17 of Forest Twp., T23N, R7W to its confluence with the Manistee River.~~

~~(ii) Fisher Creek (a.k.a. "Hopkins Creek" on the USGS topographic map) from its source in section 31 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.~~

~~(jj) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (ii) of this subrule.~~

~~(kk) The lands lying within 400 feet of the river's edge that are enumerated in subdivisions (a) to (jj) of this subrule.~~

~~(2) If uncertainty exists with respect to the boundaries of the district as shown on the zoning map, then all of the following provisions shall apply:~~

~~(a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.~~

~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.~~

~~(c) Boundaries that are indicated as approximately following city, village, township, or county boundaries lines shall be construed as following the city, village, township, or county boundary lines.~~

~~(d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.~~

~~(e) Boundaries that are indicated as following shorelines shall be construed to follow the shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines.~~

~~Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerline.~~

~~(f) Boundaries that are indicated as parallel to or extensions of features indicated in subdivisions (a) to (e) of this subrule shall be so construed.~~

~~Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.~~

~~(g) If physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, then the zoning review board shall interpret the district boundaries.~~

~~(h) Insofar as a portion or all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, then the district boundaries extend to the center of any public right-of-way.~~

~~(3) Certified copies of the Upper Manistee River natural river zoning map shall be filed with all of the following entities:~~

~~(a) The state tax commission.~~

~~(b) Local tax assessing officers.~~

~~(c) Township and county clerks.~~

~~(d) County drain commissioners.~~

~~(e) Local building department.~~

~~(f) The natural rivers unit of the Michigan department of natural resources.~~

~~R-281.176 Zoning permits; site plans; certificates of zoning compliance.~~

~~Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.177. Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.~~

~~(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, may require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:~~

- ~~(a) A site plan drawn to scale, with the scale indicated.~~
- ~~(b) Property dimensions, including river frontage.~~
- ~~(c) Size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.~~
- ~~(d) Existing vegetation, including the location and type.~~
- ~~(e) Adjacent streets and highways.~~
- ~~(f) Parking areas.~~
- ~~(g) Cross section drawing showing height of buildings above water level and bluff heights.~~
- ~~(h) Entrances to public streets.~~
- ~~(i) A description of the building design, including proposed construction materials.~~
- ~~(j) Drainage facilities.~~
- ~~(k) The location and description of the method to dispose of sanitary wastes.~~
- ~~(l) Proposed landscaping.~~
- ~~(m) The location of footpaths.~~
- ~~(n) Signs proposed, including the size, location, and material.~~
- ~~(o) North arrow.~~
- ~~(p) Date of drawing.~~
- ~~(q) Detailed site location map.~~
- ~~(r) Any additional information required by the zoning administrator or zoning review board to carry out the administrator's or board's duties.~~

~~Examples of such information include the following:~~

- ~~(i) Soil types.~~
- ~~(ii) Topography.~~
- ~~(iii) Building elevations.~~
- ~~(iv) Site photographs.~~
- ~~(v) Anticipated traffic volumes.~~
- ~~(vi) Traffic circulation patterns.~~
- ~~(vii) Other pertinent site information.~~

~~(3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certifies compliance with these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is an accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at~~

~~the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator.~~

~~Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes or local zoning permits.~~

~~R 281.177 Land use and development standards.~~

~~Rule 7. (1) Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:~~

~~(a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:~~

~~(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.~~

~~(ii) Reforestation and other accepted forest management practices that do not involve permanent structures and that are landward of the native vegetation buffer.~~

~~(iii) Agricultural activities, such as plowing, disking and planting of crops, including general and specialized farming such as Christmas tree farms, provided that all new activities occur landward of the native vegetation buffer and provided such uses will not significantly contribute to stream degradation. Construction of any residential and farm-related structures and appurtenances are classified as principal uses (see subrule (b) of this rule) and are subject to zoning permit requirements. New aquaculture facilities and concentrated animal feeding operations, and expansion of existing aquaculture facilities and concentrated animal feeding operations, are not permitted within the Natural River District without a land use variance. Resumption of prior agricultural uses that were located within the native vegetation buffer but have been discontinued, such as crop fields that are rotated, may resume if 1 of the following criteria are met:~~

~~(A) The cessation of use was within 10 years of resumption of use.~~

~~(B) The cessation of use was due to implementation of a management plan written prior to adoption of these rules.~~

~~(C) The cessation of use was the result of written agreements with a governmental agency or agencies entered into prior to adoption of these rules.~~

~~(D) The cessation of use was the result of written agreements with a governmental agency or agencies entered into after adoption of these rules or ordinances implementing this plan, where the term of cessation of use specified in the agreement is for 10 years or less.~~

~~(E) The cessation of use was required or imposed by a governmental agency or agencies.~~

~~(iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.~~

~~(v) The off-road operation of emergency and public utility maintenance vehicles, and the operation of motorized or non-motorized wheelchairs by persons with disabilities on footpaths, boardwalks, or other designated trails. Other motorized vehicles may not be operated off the road in the native vegetation buffer as specified in R 281.174.~~

~~(vi) Cutting of low growing vegetation in the native vegetation buffer to create a private footpath of not more than 4 feet in width leading to a single point on the river's edge. A boardwalk or other above-grade walkway is considered a structure and requires a zoning permit.~~

~~(vii) Signs, subject to the provisions of R 281.174.~~

- ~~(viii) A replacement residential water supply well, provided the replacement well is no closer to the river's edge than the well it is replacing and is landward of the native vegetation buffer, and the replaced well is properly abandoned.~~
- ~~(ix) Routine maintenance and repairs of principal uses within the existing foundation and structure, subject to the provisions of R 281.180.~~
- ~~(x) Satellite dishes that are less than 24 inches in diameter and that are not located in the native vegetation buffer.~~
- ~~(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:~~
 - ~~(i) Single family dwellings, including detached long term rental dwellings, if all of the following provisions are complied with:~~
 - ~~(A) Only 1 dwelling per parcel unless 1 of the following occurs:~~
 - ~~(1) The property owner develops a site plan for the parent parcel showing theoretical property lines for individual lots based on Natural River development standards, and locates any additional residences and appurtenances as if the property were divided into those separate lots.~~
 - ~~(2) For each single family dwelling placed in a cluster type setting so that the requirements in subdivision (b)(i)(A)(1) are not met, a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal parcel as described in R 281.174 shall be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth, and buildable area equal to a newly created separate legal lot or parcel as described in R 281.174 shall be sold, donated or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.~~
 - ~~(B) Building setback for lots shall be not less than 100 feet from the ordinary high watermark on the mainstream and other designated tributaries, except as described in subdivision (b)(i)(C) of this rule. Structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries. No building shall take place on land that is subject to flooding or in any wetland area. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.~~
 - ~~(C) Building setbacks in areas of concentrated development are as follows:~~
 - ~~If a vacant legal nonconforming parcel is between and adjacent to 2 parcels that contain legal single family dwellings that do not meet the minimum building setbacks, and the adjacent legal non-conforming single family dwellings are within 300 feet of each other, then the minimum building setback for a new single family dwelling on the vacant parcel is the distance from the river of the adjacent single family dwelling that is farthest from the river's edge or the minimum required width of the native vegetation buffer, whichever is greater, provided the single family dwelling is not placed on lands that are subject to flooding or in any wetland area. All appurtenances and accessory buildings shall meet the minimum required building setback described in subdivision (b)(i)(B). All structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.~~

- ~~(ii) Expansion of a legal nonconforming single-family dwelling subject to the provisions of R 281.180.~~
- ~~(iii) Accessory buildings and appurtenances that meet requirements of paragraph (i) of this subdivision.~~
- ~~(iv) One private boat dock per parcel, subject to R 281.174.~~
- ~~(v) One private river access stairway per parcel, subject to R 281.174.~~
- ~~(vi) Utility lines to service private, single-family dwellings.~~
- ~~(vii) Disposal fields, septic tanks, and outhouses if all of the following provisions are complied with:
 - ~~(A) The septic tank and disposal field meet local health department standards.~~
 - ~~(B) The disposal fields shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Upper Manistee River or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.~~
 - ~~(C) The septic tank shall be no closer to the river than the dwelling it serves and shall not be located within the 100-year floodplain or a wetland area.~~
 - ~~(D) The bottom of the disposal field shall be at least 4 feet above the seasonal high groundwater table.~~
 - ~~(E) An outhouse shall be constructed using a watertight waste containment system which allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Upper Manistee River or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.~~
 - ~~(F) Drywells and earth privies are not permitted unless they are authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.~~
 - ~~(G) An innovative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 75 feet from the river's edge, provided no part of the system is in a wetland or the 100-year floodplain.~~
 - ~~(H) Disposal of sludge from any wastewater treatment system is prohibited in the Natural River District.~~~~
- ~~(viii) Water supply wells serving exempt, principal, or special uses if the well is landward of the native vegetation buffer described in R 281.174.~~
- ~~(ix) Mining and extracting industries, if all land disturbance, structures, and other activities related to the industry are located more than 300 feet from the ordinary high watermark.~~
- ~~(x) Land divisions, if the minimum standards specified in R 281.174 are met. A zoning permit, special use permit or variance will not be granted for any activity on a parcel that is created after the effective date of these rules if the new parcel does not meet all of the standards in R 281.174. No new parcel will be created that would require reaching the only buildable area by constructing a road/stream crossing.~~
- ~~(xi) Home occupations and home-based occupations, subject to the provisions of Rule 4.~~
- ~~(xii) Land alteration, such as grading, dredging, and filling of the land surface, except thin the native vegetation buffer, on the face or crest of a bluff, or in a wetland or floodplain as defined in R 281.171. Draining wetlands is prohibited. Ponds may be constructed if the pond is not constructed in a wetland or the 100-year floodplain, the pond meets the building setback established for the area, spoils are placed in a non-wetland, non-floodplain area landward of the native vegetation buffer, and the pond is not connected to the river by any surface or subsurface drainage system.~~

~~(xiii) Bridges, including any structure of any span length designed to provide a pedestrian or vehicle stream crossing, subject to the following standards:~~

~~(A) All existing bridges that are destroyed by any means, whether on a tributary or mainstream segment, may be replaced. On mainstream segments, destroyed pedestrian bridges may not be replaced with vehicle bridges.~~

~~Destroyed bridges shall be replaced within 18 months of destruction or the replacement bridge shall be considered to be a new bridge and will be subject to new bridge standards.~~

~~(B) New bridges are not permitted on any parcel that is created after the effective date of these rules.~~

~~(C) New bridges of any type are prohibited on mainstream segments.~~

~~(D) All replacement bridges on mainstream segments shall span the bankfull channel, have a minimum clearance of 5 feet between the ordinary high water mark and "low steel" (the bottom of the bridge deck and/or deck supports other than abutments), and be a structure with a natural bottom, for example, pipe, box, or arch culverts are not permitted.~~

~~(E) New pedestrian bridges are permitted on all tributaries provided the lands connected by a new bridge were, at the time of adoption of these rules, and continue to be, collectively owned by a single person.~~

~~(F) New bridges linking properties in separate ownership shall not be permitted except in areas where construction of such a bridge to access a permitted building site will result in less resource damage than construction of another type of permitted access. The exception shall only apply to lots that were created before the effective date of these rules.~~

~~(G) Only 1 bridge is permitted to access a portion of land that is otherwise inaccessible from the owner's contiguous property.~~

~~(H) Permanent new bridges on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box or arch culverts are not permitted, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, such as dirt bikes and ATVs, are excluded.~~

~~(I) Permanent bridges replacing bridges that have natural bottoms on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box, or arch culverts, are not permitted, and in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, such as dirt bikes and ATVs, are excluded.~~

~~(J) Permanent bridges replacing bridges without natural bottoms on tributaries shall span the bankfull channel, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, such as dirt bikes and ATVs, are excluded.~~

~~(K) Temporary vehicle bridges on tributaries for the purpose of access for timber harvest may be permitted provided they are constructed in a manner that minimizes disruption of the stream and are removed immediately after harvesting activities. Disturbed areas in the native vegetation buffer shall be re-vegetated, any fill placed shall be removed and the land shall be returned to its original grade as soon as possible after removal of the bridge. Proper erosion/sedimentation control methods shall be used during placement and use of the bridge.~~

~~(L) New permanent vehicle bridges on tributaries may be allowed upon receipt of a special use permit.~~

~~(xiv) Forest management activities within the native vegetation buffer, subject to the provisions of R 281.174.~~

~~(xv) Boardwalks that meet the setback requirements of subrule (2)(C) of this rule and boardwalks associated with a footpath to the river's edge subject to R 281.174(6).~~

~~(c) The Upper Manistee River natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district~~

that have not been identified under the exempt and principal uses provisions of this rule. To ensure that such uses do not contravene the goals and objectives of the Upper Manistee River natural river plan and these rules, such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:

~~(i) Detached rental cabins, if all of the following provisions are complied with:~~

~~(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of frontage. Clustering of rental cabins is permitted and encouraged; however, there shall not be more than 1 cabin per 200 feet of river frontage. For each cabin placed in a cluster-type setting, a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal parcel as described in R 281.174 shall be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal lot or parcel as described in R 281.174 will be sold, donated, or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.~~

~~(B) The size of each cabin shall not exceed 900 square feet and 1 story in height. The cabin shall not contain sleeping accommodations for more than 8 people.~~

~~(C) Each cabin shall be set back a minimum of 200 feet from the ordinary high watermark. All associated buildings and structures shall be located outside of the Natural River District.~~

~~(D) Temporary recreational facilities, including tents, camper trailers, and recreational vehicles shall be located outside of the Natural River District.~~

~~(E) Each cabin shall be a minimum of 75 feet from the property line of adjacent riverfront properties.~~

~~(F) Establishment of vegetative buffers along side or back lot lines may be required for rental cabins that are adjacent to existing residential uses. Buffers shall consist of plant material that is indigenous to the area in a strip at least 20 feet wide composed of deciduous trees interspersed with coniferous trees to be spaced not more than 10 feet apart. Deciduous trees shall be a minimum of 8 feet in height and coniferous trees a minimum of 5 feet in height at the time of planting. The buffer shall also include dense shrubs placed not less than 5 feet apart having a minimum of 3 feet in height when planted. The entire buffer shall be maintained in at least as healthy a condition as when planted.~~

~~(G) Docks may be constructed for the private use of occupants of the rental cabins. Permanent and seasonal docks shall comply with the general standards for — docks and all of the following provisions:~~

~~(1) Docks shall be not larger than 48 square feet, with not more than 4 feet of the dock extending into the water.~~

~~(2) Docks may be constructed at the rate of 1 dock per 1000 feet of frontage. If the property in question contains less than 1000 feet of frontage, 1 dock will be permitted.~~

~~(3) Docks shall be constructed of natural materials that blend with the natural surroundings.~~

~~(4) Access to a dock or docks shall be along a single designated footpath not more than 4 feet wide to minimize disruption of the native vegetation buffer.~~

~~(5) Any steps or stairs necessary on the streambank to access the dock shall be constructed without cutting into the ground surface, unless site and soil conditions indicate that a recessed stairway will better meet the goals and objectives of designation.~~

~~(ii) Campgrounds, including those with provisions for tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, impervious pads, and utility hookups, if all of the following provisions are complied with:~~

~~(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.~~

~~(B) Commercial buildings associated with the campground are prohibited in the Natural River District.~~

~~(C) All permanent structures shall be at least 200 feet from the river's edge.~~

~~(D) Campsites are permitted at a density of not more than 4 sites per acre of land that is located in the Natural River District and landward of the native vegetation buffer.~~

~~(E) A 100 foot wide native vegetation buffer along the river shall be maintained.~~

~~(F) Campsites that accommodate wheeled motor vehicles shall be at least 200 feet — from the river's edge.~~

~~(G) Walk-in campsites shall be landward of the native vegetation buffer.~~

~~(H) Docks may be constructed at the rate of 1 dock not larger than 48 square feet for each 200 feet of river frontage, accessed by a single footpath not more than 4 feet wide.~~

~~(I) No motorized vehicle access to the river is permitted.~~

~~(J) Launching or retrieval of commercial watercraft, other than by registered campers on-site, is prohibited at any newly developed campground.~~

~~(iii) Permanent vehicle bridges on tributaries subject to the provisions of R 281.177.~~

~~R 281.178 Application and approval; procedures and standards; principal uses and special uses.~~

~~Rule 8. (1) An application for a principal use shall be submitted and processed pursuant to all the following procedures:~~

~~(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:~~

~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~

~~(ii) A site plan that meets the requirements of R 281.176.~~

~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.~~

~~(b) Within 21 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.~~

~~(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.~~

~~(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

~~(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. An application for an extension shall be made before the permit expires. Any subsequent extensions for a variance approval shall have the written approval of the zoning review board.~~

- ~~(2) An application for a special use permit shall be submitted and processed pursuant to all the following procedures:~~
 - ~~(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:~~
 - ~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~
 - ~~(ii) Eight copies of a site plan that meets the requirements of R 281.176.~~
 - ~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.~~
 - ~~(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property that is being considered for a special use.~~
 - ~~(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.~~
 - ~~(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:~~
 - ~~(i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.~~
 - ~~(ii) Notice shall be sent by first-class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in 2(a)(iv) of this subrule.~~
 - ~~(iii) Notice shall also be sent to all of the following entities:~~
 - ~~(A) The natural rivers unit of the Michigan department of natural resources.~~
 - ~~(B) Local tax assessing officials.~~
 - ~~(C) Township and county clerks.~~
 - ~~(D) Local building inspectors.~~
 - ~~(E) State, district, or county health department, when applicable.~~
 - ~~(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.177 be satisfied:~~
 - ~~(i) That the purposes specified in R 281.172 are accomplished.~~
 - ~~(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.~~
 - ~~(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.~~
 - ~~(e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.~~
 - ~~(f) The concurring vote of at least 4 of the 7 voting members of the zoning review board shall be required to approve a special use.~~
 - ~~(g) A special use that is granted by the zoning review board shall be alid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, then the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.~~
 - ~~(h) If the zoning review board determines that the applicant has failed to comply with any of the requirements of these rules or the approved special use permit, then the board, after a public hearing held in accordance with the provisions of subrule (c) of this rule may revoke any special use approval.~~

~~(i) An application for a special use that has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts and conditions exist which may result in favorable action upon resubmission.~~

~~(j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.~~

~~(k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

~~R 281.179 Variances and variance hearings:~~

~~Rule 9. (1) A dimensional variance from these rules may be granted by the zoning review board after a public hearing or, in certain instances, by the zoning administrator as provided in subrule (3) of this rule to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in complying with these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.~~

~~(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in complying with these rules as specified in subrule (1) of this rule:~~

~~(a) How substantial the variance is in relation to the zoning requirements.~~

~~(b) Whether a substantial change will be effected in the character of the area or a substantial detriment created for adjoining properties.~~

~~(c) Whether the difficulty can be overcome by some feasible method other than a variance.~~

~~(d) Whether, in view of the manner in which the difficulty arose, the interests of justice shall be served by allowing the variance.~~

~~(e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.~~

~~(f) Whether the variance may result in a material adverse effect on the environment.~~

~~(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses.~~

~~Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances are defined as reductions in setbacks for uses on any lawful lot that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures, including decks, porches, and steps.~~

~~(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors exist:~~

~~(a) The property cannot be used in a manner that is consistent with existing zoning.~~

~~(b) The hardship results from the application of these rules to the applicant's property.~~

~~(c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.~~

~~(d) The hardship is not the result of the applicant's own actions.~~

~~(e) The hardship is peculiar to the applicant's own property.~~

- ~~(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor that could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.~~
- ~~(6) For a land use variance, the zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:~~
 - ~~(a) The use will be consistent with and in accordance with the general objectives of the Upper Manistee River natural river plan.~~
 - ~~(b) The use will be designed, constructed, operated, and maintained so as to be consistent with and appropriate in appearance with the existing or intended character of the natural river district and the use will not change the essential character of the natural river district.~~
 - ~~(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or the persons or agencies that are responsible for the establishment of the proposed use may adequately provide essential services.~~
 - ~~(d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.~~
 - ~~(e) The use will be consistent with the intent and purposes of these rules.~~
 - ~~(f) The use or the structures to be used will not cause an overcrowding of the land or an undue concentration of population that may result in degradation to the river and district.~~
 - ~~(g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.~~
- ~~(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided in subrule (3) of this rule. The hearing and notice procedure shall follow the procedure established for special use applications by the provisions of R 281.178. A decision shall be made within 30 days after the final hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. Reasons for the decision shall be in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of at least 4 of the 7 voting members of the zoning review board shall be necessary to effect a dimensional variance in these rules. The concurring vote of at least 5 of the 7 voting members of the zoning review board is required to grant a land use variance in these rules. If the required concurring vote for approval of a variance is not achieved, then the variance is considered to be denied.~~
- ~~(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.~~
- ~~(9) The effect of any variance shall be to create a nonconforming land use, lot, or structure that is then subject to R 281.180, which regulates continued use.~~
- ~~(10) The zoning review board or the zoning administrator may impose conditions on an applicant before granting a variance. Such conditions shall be in writing. The zoning permit issued for the project for which the variance was approved is not valid until the applicant accepts the conditions in writing.~~

~~(11) An application for a variance that has been denied by the zoning review board or zoning administrator shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts, and conditions exist which might result in favorable action upon resubmission.~~

R 281.180 Nonconforming uses, lots, and structures Pine river system boundaries.

~~Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted pursuant to the terms of these rules. Legal nonconforming uses, structures, or lots continue until they are brought into conformity and, in certain instances, permit the limited expansion of certain legal nonconforming uses and structures.~~

~~(2) If the combination of 2 or more contiguous nonconforming vacant lots owned by the same person results in an increase in conformance with the dimensional requirements of these rules, then the lots shall be combined for use, unless the lots are within a plat established before the adoption of these rules wherein more than 50% of the platted lots contain a single family dwelling.~~

~~(3) An application for a zoning permit for a principal use on a legal nonconforming lot of record shall be approved by the zoning administrator if both of the following provisions are complied with:~~

~~(a) The principal use complies with these rules, except the minimum lot width and area requirements.~~

~~(b) The applicant or owner of the subject lot does not own other contiguous properties when, if combined with the nonconforming lot, would result in increasing the conformity of the lot.~~

~~(4) An application for a zoning permit for a principal use on a legal nonconforming lot of record that is not in compliance with subrule (3)(a) and (b) of this rule shall be treated as a variance pursuant to the provisions of R 281.179.~~

~~(5) Where, on the effective date of these rules a lawful use of land exists that is made unlawful pursuant to the terms of these rules, the use may be continued if it remains otherwise lawful, subject to all of the following provisions:~~

~~(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of these rules without a land use variance. Enlarging, increasing or extending a lawful, nonconforming use shall be treated as a variance pursuant to R 281.179.~~

~~(b) The nonconforming use and the structures associated with the nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by such use on the effective date of these rules, unless the move would result in a greater degree of conformity with these rules.~~

~~(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.~~

~~(6) Where a lawful structure exists on the effective date of these rules or amendment of these rules that is made unlawful pursuant to the terms of these rules, the structure may be continued if it remains lawful, subject to all of the following provisions:~~

~~(a) The structure may not be expanded or altered in a way that increases its nonconformity, such as expanding toward the river's edge or increasing the height above the maximum height standard. However, the ground floor area, for example, "footprint," of any legal nonconforming~~

single-family dwelling may be increased by up to 50%, or up to 75% if the expansion requires a minor variance, of the existing enclosed ground floor living area cumulative from the date of nonconformance, or to the minimum extent necessary to comply with local standards for minimum legal floor area for dwellings, whichever is greater, through alterations, repairs, and additions, if the increase does not increase the nonconformity of the dwelling. Any alteration of a legal nonconforming dwelling must, to the extent possible, be in compliance with all setback and other building requirements. Any expansion of a lawful, nonconforming dwelling, including addition of additional stories, shall be treated as a variance pursuant to the provisions of R 281.179 unless it meets the criteria in subrule 10(6)(b) of this rule.

~~(b) Expansion of a nonconforming single-family dwelling may be permitted by the zoning administrator, without the need for a variance, if either 1 of the following applies:~~

~~(i) When any part of the expansion is located within the native vegetation buffer, expansion of the dwelling is to the landward side of the existing structure and is less than a 50% increase in enclosed ground floor living area and the height of the expansion is not greater than the height of the original dwelling, and the expansion is not located in a wetland or the 100-year floodplain.~~

~~(ii) When the expansion is located completely outside the native vegetation buffer, expansion of the dwelling is not closer to the river than the closest point of the existing dwelling and is less than a 50% increase in enclosed ground floor living area and the height of the expansion is not greater than the height of the original dwelling, and the expansion is not located in a wetland or the 100-year floodplain.~~

~~(c) If any legal nonconforming structure is destroyed by any means, except willful destruction by the property owner or his or her agent, to an extent that is more than 50% of twice its assessed evaluation, then restoration of the structure may be permitted by the zoning administrator, without the need for a variance, if all of the following conditions exist:~~

~~(i) The structure is not located on land subject to flooding (the 100-year floodplain).~~

~~(ii) The presence of the nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(iii) The restored structure occupies the same enclosed ground floor area, for example, "footprint," and contains the same square footage as the original structure.~~

~~(iv) Application for permission to restore a damaged structure is made within 12 months of the time of damage. An extension may be granted if the property is held in probate, an insurance settlement related to the damage is in dispute, or a criminal investigation related to the damage is in progress.~~

~~(v) If any of the provisions subdivision (c)(i) to (iv) of this subrule cannot be met, restoration of a destroyed legal nonconforming structure will require a variance.~~

~~(d) If a structure is willfully destroyed by the property owner or his or her agent to an extent that is more than 50% of twice its assessed evaluation, the property owner shall be required to meet the building setback requirement to the greatest extent possible when constructing any new or replacement structure.~~

~~(e) If a variance is granted for a new single-family dwelling to replace a single-family dwelling, the new dwelling shall not occupy more than 150% of the enclosed ground floor area of the destroyed dwelling, except that if a minor variance is granted for a new single-family dwelling to replace a single-family dwelling, the new dwelling shall not occupy more than 175% of the enclosed ground floor area of the destroyed dwelling.~~

~~(f) A variance shall not be granted for a new nonconforming structure to replace a destroyed nonconforming structure that would result in the new structure being more nonconforming than the destroyed structure.~~

~~(g) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure on the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules. Moving a legal nonconforming structure requires a zoning permit and may require a variance.~~

Rule 130. The boundaries of the Pine river natural river district shall be as described in these rules and as depicted on the certified Pine river natural river zoning map with an effective date of December 27, 2004. The Pine river natural river zoning district comprises an area that is described as follows:

(a) The Pine river mainstream, from the confluence of the North Branch Pine river and the East Branch Pine river in section 29, T20N, R10W to M-55.

(b) The north branch Pine river from its easternmost crossing of the north line of section 20, T21N, R9W to its confluence with the east branch Pine river. Lands adjacent to the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch are subject to mainstream development standards in R 281.88.

(c) Spalding creek from 46 road in section 16, T21N, R10W to its confluence with the north branch Pine river.

(d) Fairchild creek from its source in section 13, T21N, R11W to its confluence with the north branch Pine river.

(e) Sixteen creek from its source in section 2, T20N, R10W to its confluence with the north branch Pine river.

(f) An unnamed stream from the outfall of a dam in section 8, T20N, R10W to its confluence with the Pine river.

(g) The east branch Pine river from the outfall of a lake in section 1, T20N, R10W to its confluence with the north branch Pine river.

(h) The Rose lake outlet from its sources at the outfall of Rose lake in section 3, T19N, R9W and the outfall of Emery lake in section 34, T20N, R9W, to its confluence with the east branch Pine river.

(i) Edgett creek from 190th road in section 36, T20N, R10W to its confluence with the Rose lake outlet including both branches of the Diamond lake outlet from their sources in section 26, T20N, R10W to the confluence with Edgett creek.

(j) An unnamed stream from its source in section 20, T20N, R9W to its confluence with the Rose lake outlet.

(k) Sprague creek from the outfall of a pond in the center of section 33, T20N, R10W to its confluence with the Pine river.

(l) Beaver creek from the north/south centerline of section 11, T19N, R10W to its confluence with the Pine river.

(m) Little Beaver creek from the outlet of a large pond in the northeast 1/4 of section 19, T19N, R10W to its confluence with Beaver creek.

(n) An unnamed stream from the outfall of the southernmost of two ponds in section 14, T19N, R11W to its confluence with the Pine river.

(o) Coe creek from the outfall of Lake Olga in section 1, T20N, R11W to its confluence with the Pine river.

(p) Dyer creek from the outfall of a small pond in section 13, T20N, R11W to its confluence with Coe creek.

(q) Sellars creek from its source in section 21, T20N, R11W to its confluence with the Pine river.

(r) An unnamed stream from its source in section 20, T20N, R11W to its confluence with the Pine river.

(s) An unnamed stream from its source in section 19, T20N, R11W to its confluence with the Pine river.

(t) An unnamed stream from its source in section 24, T20N, R12W to its confluence with the Pine river.

(u) Silver creek from its source in section 15, T20N, R11W to its confluence with the Pine river, including all perennial tributaries from their sources to their confluence with Silver creek.

(v) An unnamed stream from its source in section 13, T20N, R12W to its confluence with the Pine river.

(w) An unnamed stream from its source in section 11, T20N, R12W to its confluence with the Pine river.

(x) An unnamed stream from its source in section 7, T20N, R11W to its confluence with the Pine river.

(y) An unnamed stream from the west line of section 6, T20N, R11W to its confluence with the Pine river.

(z) Poplar creek from its source in section 26, T21N, R11W to its confluence with the Pine river.

(aa) Dowling creek from its 2 sources in sections 21 and 28, T21N, R11W to its confluence with Poplar creek.

(bb) Hoxey creek from its source in section 25, T21N, R12W to its confluence with the Pine river.

(cc) An unnamed creek from its sources in section 27 and 34, T21N, R12W to its confluence with the Pine river.

(dd) Yates creek from its source in section 22, T21N, R12W to its confluence with the Pine river.

(ee) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams, or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (dd) of this rule.

(ff) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (dd) of this rule.

R 281.181 Zoning administrator and zoning review board; appointment; duties Pine river system principal uses; natural vegetation strip; vegetative cutting within river channel.

~~Rule 11. (1) The director shall appoint a zoning administrator and zoning review board to act as his or her agents to enforce these rules.~~

~~(2) The zoning administrator shall do all of the following:~~

~~(a) Provide necessary forms and applications and receive and process applications.~~

~~(b) Determine and verify zoning compliance when the applicant's plans are found to conform to the provisions of these rules.~~

~~(c) Conduct site inspections to ensure compliance with these rules.~~

~~(d) Pursue resolution of violations of the provisions of these rules.~~

~~(e) Issue any authorized permits and certificates of zoning compliance.~~

~~(f) Identify and record information relative to nonconformities.~~

~~(g) Maintain files of applications, permits, and other relevant documents.~~

~~(h) Schedule meetings and hearings for, and provide assistance to, the zoning review board.~~

- ~~(i) Act on minor variances as permitted by the provisions of R 281.179.~~
- ~~(3) The zoning review board shall do all of the following:~~
 - ~~(a) Adopt rules of procedure that govern the transaction of its business.~~
 - ~~(b) Act upon requests for special use permits.~~
 - ~~(c) Act on certain dimensional and land use variances pursuant to R 281.179.~~
 - ~~(d) Act on the interpretation of the official zoning map pursuant to R 281.185.~~
- ~~(4) In establishing the zoning review board, the director shall cooperate with, and seek the advice of, all of the following entities:~~
 - ~~(a) Affected townships and counties.~~
 - ~~(b) Conservation districts.~~
 - ~~(c) Property owners' associations.~~
 - ~~(d) Other interested local organizations and citizens.~~
- ~~(5) The director shall request that each affected township appoint 1 person to represent its interests on matters within its jurisdiction. The director shall request that each affected county appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The director shall request that each affected conservation district appoint 1 person to represent its interests on matters within its jurisdiction. County, township, and conservation district representatives who are appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or conservation districts do not appoint an individual to represent them within 60 days from the request by the director, then the director may make appointments on his or her own motion. The director shall appoint 1 local DNR representative and 2 citizens representatives who shall vote on all matters before the board.~~
- ~~(6) In accordance with subrule (5) of this rule, the director shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The director shall appoint alternates for the local DNR representative and 2 citizens' representatives. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.~~
- ~~(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.~~

Rule 131. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

- (a) A single-family dwelling or short-term rental facility with all the following provisions:**
 - (i) The minimum building setback not less than 150 feet from the ordinary high-water mark on the mainstream and the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch Pine river and not less than 100 feet from the ordinary high-water mark on all other designated tributaries, except as described in R 281.57.**
 - (ii) On the mainstream and the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch Pine river the setback may be decreased 1 foot**

for every 1-foot rise in bank height to a minimum distance of 100 feet from the ordinary high-water mark. The reduction in setback does not apply until the bank height reaches 25 feet, at which point the reduction in setback is 25 feet.

(iii) On all other tributaries, the setback may be decreased 1 foot for every 1-foot rise in bank height to a minimum distance of 75 feet from the ordinary high-water mark. The reduction in setback does not apply until the bank height reaches 15 feet, at which point the reduction in setback is 15 feet.

(iv) A dwelling shall be set back not less than 50 feet from the crest of a bluff on the mainstream and the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch Pine river, and not less than 25 feet from the crest of a bluff on all other designated tributaries.

(v) Building shall not take place on land that is subject to flooding or in any wetland area.

(vi) The natural contour of the face and crest of the bluff shall not be altered.

(vii) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, except the north branch of the Pine river from the confluence with Spalding creek to the confluence with the east branch of the Pine river, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after December 27, 2004, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 200 feet of river frontage, unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and at least 200 feet wide at the minimum building setback line.

(iii) Contains at least 1/2 acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.

(iv) Contains at least 80,000 square feet of area within the natural river district. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(v) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to the standards in this rule.

(vi) A lot that exists on December 27, 2004, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after December 27, 2004, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to R 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Pine river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Pine river mainstream and the north branch Pine river from its confluence with Spalding creek to its confluence with the east branch Pine river. A restrictive cutting belt that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

(3) In the Pine river system upstream of the confluence of the north branch Pine river and the east branch Pine river and on all tributaries, vegetation in the stream channel shall not be disturbed except to alleviate flooding that threatens a dwelling. In the Pine river mainstream downstream of the confluence of the north branch Pine river and the east branch Pine river vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel shall not be disturbed.

~~R 281.182 Appeals; contested cases.~~

~~Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of 1969 PA 306, MCL 24.201, and R 299.3071 to R 299.3081.~~

~~R 281.183 Violations; effect; remedies.~~

~~Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates these rules. The director shall not waive any of his or her rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to these rules is deemed invalid from the date of the authorization.~~

~~(2) In addition to all other remedies, the director may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.~~

~~R 281.184 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.~~

~~Rule 14. (1) The director may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of 1969 PA 306, MCL 24.271 to 24.287, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.182.~~

~~(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:~~

- ~~(a) The county register of deeds.~~
- ~~(b) Township and county clerks.~~
- ~~(c) The local building inspector.~~
- ~~(d) Local soil erosion and sedimentation control enforcement agencies.~~
- ~~(e) The conservation district.~~
- ~~(f) County drain commissioner.~~
- ~~(g) Zoning review board members.~~

~~(3) A local zoning ordinance that meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and either 1943 PA 184, MCL, 1943 PA 183, MCL, whichever is applicable, shall take precedence over these rules. If a local zoning ordinance does not meet all of the requirements of Natural Rivers Part 305 of 1994 PA 451, or if the local ordinance becomes inapplicable to the land area encompassed by the Upper Manistee River natural river district through court action or for any other reason, these rules shall apply. A local unit of government may, at any time, request the assistance of the department of natural resources in developing an ordinance that meets the requirements of Natural Rivers Part 305 of 1994 PA 451. The director shall determine if a local ordinance meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and shall notify the local unit of government of his or her decision in writing. If the director withdraws his or her approval of a local zoning ordinance, these rules shall apply.~~

R 281.190 Upper Manistee river system boundaries.

Rule 140. The boundaries of the Upper Manistee river natural river district shall be as described in these rules and as depicted on the certified Upper Manistee river natural river zoning map with an effective date of December 27, 2004. The Upper Manistee river natural river zoning district comprises an area that is described as follows:

- (a)** The Manistee river mainstream from its sources in sections 1 and 12, T29N, R5W to the Wexford/Missaukee county line.
- (b)** Frenchman's creek from the Lake Elizabeth dam in section 30, T29N, R4W to its confluence with the Manistee river.
- (c)** Lost Lake outlet from the outfall of Lost lake in section 6, T28N, R4W to its confluence with the Manistee river.
- (d)** An unnamed stream from its source in section 13, T28N, R5W to its confluence with the Manistee river.
- (e)** Goose creek from Cameron bridge road to its confluence with the Manistee river.
- (f)** Portage creek from the control structure near the outfall of Lake Margrethe, section 8, T26N, R4W to its confluence with the Manistee river, including all braided channels.
- (g)** All perennial tributaries to Portage creek from their sources to their confluence with Portage creek.
- (h)** Clear creek from its source at Boiling springs in section 28, T26N, R5W to its confluence with the Manistee river.
- (i)** Black creek from the outfall of south Black lake in section 21, T27N, R5W to its confluence with the Manistee river, including all braided channels.
- (j)** All perennial tributaries to Black creek from their sources to their confluence with Black creek.
- (k)** Dempsey creek from its source in section 19, T26N, R5W to its confluence with the Manistee river.
- (l)** Big Devil creek from its source in section 18, T25N, R5W to its confluence with the Manistee river.
- (m)** Big Cannon creek from its source in section 5, T24N, R5W to its confluence with the Manistee river.
- (n)** The north branch Manistee river from county road 612 in section 3, T27N, R6W to its confluence with the Manistee river.
- (o)** An unnamed stream from Tower road in section 25, T28N, R6W to its confluence with the north branch Manistee river.
- (p)** Morrison creek from its source in section 28, T27N, R6W to its confluence with the north branch Manistee river.
- (q)** Collar creek from its source in section 33, T27N, R6W to its confluence with Morrison creek.
- (r)** Flowing Well creek from its sources in section 26, T27N, R6W to its confluence with Morrison creek.
- (s)** All other perennial tributaries to the north branch Manistee river from their sources to their confluence with the north branch Manistee river.
- (t)** Willow creek from its source in section 14, T26N, R7W to its confluence with the Manistee river.
- (u)** Pierson creek from its source in section 12, T26N, R7W to its confluence with Willow creek.

- (v) Maple creek from its source in section 22, T26N, R7W to its confluence with the Manistee river.
- (w) Little Cannon creek from multiple sources in sections 29, 31 and 32, T25N, R6W to its confluence with the Manistee river.
- (x) Silver creek from its source in section 1, T24N, R7W to its confluence with Little Cannon creek.
- (y) Waterhole creek and all tributaries from their multiple sources in T25N, R7W to the confluence with the Manistee river.
- (z) Babcock creek from its sources in section 33, T25N, R7W to its confluence with the Manistee river.
- (aa) Filer creek from its source in section 4, T24N, R7W to its confluence with the Manistee river.
- (bb) Nelson creek from its sources in section 30, T25N, R7W to its confluence with the Manistee river.
- (cc) Spring creek from its sources in section 22, T25N, R8W to its confluence with the Manistee river.
- (dd) Bourne creek from its sources in section 29, T25N, R8W to its confluence with the Manistee River.
- (ee) Ham creek from its source in section 24, T24N, R8W to its confluence with the Manistee river, including two tributaries with sources in sections 3 and 9.
- (ff) Gravy creek from its source in section 5, T24N, R8W to its confluence with the Manistee river.
- (gg) Haynes creek from its source in section 31, T25N, R8W to its confluence with the Manistee river.
- (hh) Hopkins creek from its source in section 17, T23N, R7W to its confluence with the Manistee river.
- (ii) Fisher creek (also known as Hopkins creek on the United States Geological Survey topographic map) from its source in section 31, T25N, R8W to its confluence with the Manistee river.
- (jj) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams, or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (ii) of this rule.
- (kk) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (jj) of this rule.

R 281.191 Upper Manistee river system principal uses; natural vegetation strip; vegetative cutting within river channel.

Rule 141 (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

- (a) A single-family dwelling or short-term rental facility with all the following provisions:**
 - (i) The minimum building setback shall be not less than 100 feet from the ordinary high-water mark on the mainstream and other designated tributaries, except as described in R 281.57.**
 - (ii) A dwelling shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries.**
 - (iii) Building shall not take place on land that is subject to flooding or in any wetland area.**
 - (iv) The natural contour of the face and crest of the bluff shall not be altered.**

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to the provisions of R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Upper Manistee river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Upper Manistee river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 75 feet from the river's edge on designated tributaries, provided no part of the system is in a wetland or the 100-year floodplain.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after December 27, 2004, with the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 200 feet of river frontage, unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river, and at least 200 feet wide at the minimum building setback line.

(iii) Contains at least one-half acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.

(iv) Contains at least 80,000 square feet of area within the natural river district. Any "common area" created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the

parcel is greater than 150 feet from the river's edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(v) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to the standards in this rule.

(vi) A lot that exists on December 27, 2004, shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Any lot created after December 27, 2004, shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to Rule 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river's edge, subject to R 281.58.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the Upper Manistee river natural river district, a natural vegetation strip that includes the river and all lands within 75 feet of the ordinary high-water mark on each side of the Upper Manistee river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to the provisions of R 281.57.

(3) On all designated tributaries, vegetation in the stream channel may not be disturbed except to alleviate flooding that threatens a dwelling. In the Upper Manistee river mainstream vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel shall not be disturbed.

R 281.200 Two Hearted river system boundaries.

Rule 150. The boundaries of the Two Hearted river natural river district shall be as described in these rules and as depicted on the certified Two Hearted river natural river zoning map with the effective date of these rules. The Two Hearted river natural river zoning district comprises an area which is described as follows:

(a) The Two Hearted river from the confluence of the West Branch Two Hearted river and the north branch Two Hearted river in section 1, T48N, R11W to its mouth at Lake Superior.

(b) The north branch Two Hearted river from its source in section 20, T48N, R12W, to its confluence with the west branch Two Hearted river.

(c) Unnamed stream from its source in section 9, T48N, R12W, to its confluence with the north branch Two Hearted river.

(d) The west branch Two Hearted river from its source, including the west branch lakes, in sections 9 and 10, T48N, R12W, to its confluence with the north branch Two Hearted river.

(e) South branch Two Hearted river from its source, including Whorl pond, in section 4, T47N, R11W, to its confluence with the west branch Two Hearted river.

(f) Dawson creek from its source in section 25, T48N, R11W, to its confluence with the Two Hearted river.

(g) East branch Two Hearted river from its source in section 27, T48N, R10W, to its confluence with the Two Hearted river.

(h) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (g) of this rule.

(i) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (h) of this rule.

R 281.201 Definitions Two Hearted river system principal uses; natural vegetation strip.

~~Rule. 1. As used in these rules:~~

- ~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit, special exception permit, or variance.~~
- ~~(b) "Appurtenance" means a structure incidental to a dwelling, including, but not limited to, garages, private access roads, pump houses, wells, sanitary facilities, and electrical service lines.~~
- ~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~
- ~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~
- ~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~
- ~~(f) "Commission" means the natural resources commission.~~
- ~~(g) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~
- ~~(h) "Director" means the director of the department of natural resources.~~
- ~~(i) "Family" means either of the following:~~
 - ~~(i) One or more persons who are related by blood, legal adoption, or marriage and who occupy a single family dwelling unit with not more than 3 other persons.~~
 - ~~(ii) Not more than 5 unrelated persons who occupy a single family dwelling unit.~~
- ~~(j) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.~~
- ~~(k) "Front" means that side of a lot abutting the river's edge of the mainstream or tributary.~~
- ~~(l) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~
- ~~(m) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules, or a lot or parcel described by metes and bounds, which has been recorded as required by law.~~
- ~~(n) "Natural river district" means the Rogue river natural river district as described in R 281.203(1).~~
- ~~(o) "Ordinary high water mark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the~~

~~upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~

~~(p) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.~~

~~(q) "River's edge" means the ordinary high water mark as used in Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (o) of this rule.~~

~~(r) "Setback" means the horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~

~~(s) "Single family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~

~~(t) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~

~~(u) "Structure" means anything that is constructed, erected, or to be moved to or from any premise which is located above, on, or below the ground, including, but not limited to, roads, signs, billboards, and mobile homes. Temporary recreational facilities, including, but not limited to, tents, camper trailers, and recreation vehicles are not considered structures when used less than 30 days per year and located landward of the natural vegetation strip.~~

~~(v) "Zoning administrator" means the administrator of these rules who is appointed by the natural resources commission.~~

~~(w) "Zoning permit" means a standard form which is issued by the zoning administrator upon a determination that the proposed use of land and the proposed buildings and structures thereon are in compliance with all provisions of these rules.~~

~~(x) "Zoning review board" means a group of not less than 5 nor more than 9 people which includes not less than 3 local representatives and 1 department of natural resources representative and which is appointed by the commission to act upon requests for special exceptions.~~

Rule 151. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 100 feet from the crest of an eroding river bank, not less than 75 feet from the crest of a non-eroding river bank that is greater than 20 feet above normal water levels, and not less than 100 feet from the crest of a non-eroding river bank that is less than 20 feet above normal water levels, except as described in R 281.57.

(ii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iii) The natural contour of the face and crest of the river bank shall not be altered.

(iv) The land between the crest of the river bank and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

- (i) A septic tank and disposal field meet local health department standards.**
- (ii) A disposal field located in conformance with the building setbacks outlined in subdivision (a) of this subrule and shall be not less than 100 feet from any surface or subsurface drain that discharges into the Two Hearted river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.**
- (iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.**
- (iv) An outhouse shall be constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Two Hearted river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.**
- (v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.**
- (vi) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.**
- (g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.**
- (h) A land division, if any lot created after the effective date of these rules, with all the following provisions:**
 - (i) Is accessible by a public road or legal easement on at least 1 side of the stream.**
 - (ii) Has at least 330 feet of river frontage (unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 330 feet wide at the minimum building setback line.**
 - (iii) Contains at least 10 acres of area. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area.**
 - (iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.**
 - (v) A lot that exists on the effective date of these rules shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Lots that are created after the effective date of these rules shall meet the minimum requirements of this rule, except as provided in R 281.56.**
- (i) Home occupations and home-based occupations, subject to R 281.57.**
- (j) Land alteration, subject to R 281.57.**
- (k) Bridges, subject to R 281.58.**
- (l) Forest management activities within the natural vegetation strip, subject to R 281.57.**
- (m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.**
- (n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.**

(2) Within the Two Hearted river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Two Hearted river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

R 281.202 Purpose Rescinded.

~~Rule 2. The commission, on its own motion, in order to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the designated portions of the Rogue river, a designated natural river, promulgates these rules whose purposes are as follows:~~

- ~~(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to unwise development patterns within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.~~
- ~~(b) To protect the free flowing conditions, fish and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Rogue river and adjoining land.~~
- ~~(c) To prevent flood damage due to interference with natural floodplain characteristics by excluding developments which are vulnerable to flood damage, and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~
- ~~(d) To provide for residential and other compatible, permitted uses that complement the natural characteristics of the natural river system.~~
- ~~(e) To protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~

R 281.203 Boundaries; rules of construction; display and filing of zoning map; effect of zoning rules Rescinded.

~~Rule 3. (1) The boundaries of the Rogue river natural river district shall be as described in these rules and as depicted on the certified Rogue river natural river zoning map. The Rogue river natural river district comprises an area which is described as follows:~~

- ~~(a) The mainstream of the Rogue river from 20 mile road, section 14, T10N, R12W, in Kent county downstream to the confluence with the Grand river, Kent county.~~
- ~~(b) Barkley creek from its headwaters downstream to the Rogue river.~~
- ~~(c) Cedar creek from its headwaters downstream to the Rogue river.~~
- ~~(d) Duke creek from its headwaters downstream to the Rogue river.~~
- ~~(e) Rum creek from its headwaters downstream to the Rogue river.~~
- ~~(f) Shaw creek from its headwaters downstream to the Rogue river.~~
- ~~(g) Spring creek from its headwaters downstream to the Rogue river.~~
- ~~(h) Stegman creek from its headwaters downstream to the Rogue river.~~
- ~~(i) The lands lying within 300 feet of the edge of the waters listed in subdivisions (a) to (h) of this subrule.~~

~~(2) Certified copies of the Rogue river natural river zoning map shall be filed with the local tax assessing officers and with the state tax commission, and additional display copies shall be provided to local officials in the Rogue river area, including all of the following:~~

- ~~(a) County register of deeds.~~
- ~~(b) Zoning administrator of these rules.~~
- ~~(c) Local planning, zoning, and health officials.~~
- ~~(d) Township and county clerks.~~

- ~~(e) Local building inspector.~~
- ~~(f) Local soil erosion and sedimentation control enforcement agencies.~~
- ~~(g) The soil conservation service.~~
- ~~(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within the natural river district, except that if these rules impose greater restrictions than those found on such easements, covenants, or deeds, the provisions of these rules shall prevail.~~
- ~~(4) These zoning rules do not permit actions prohibited by other statutes or ordinances, including zoning ordinances, which are applicable to the natural river district. Therefore, all of the following provisions apply:~~
 - ~~(a) All earth-changing activities, other than normal landscaping or maintenance, that are undertaken within 500 feet of a lake or stream are subject to the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~
 - ~~(b) All dredge and fill activities and construction of permanent structures lying below the ordinary high-water mark are subject to the provisions of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws.~~
 - ~~(c) All development and land uses in the Rogue river natural river district are subject to the provisions of appropriate local zoning ordinances, health codes, and building codes, including requirements for permits and approvals.~~
 - ~~(5) If uncertainty exists with respect to the boundaries indicated on the Rogue river natural river zoning map, all of the following rules shall apply:~~
 - ~~(a) Boundaries that are indicated as approximately following streets or highways shall be construed to be the center lines of the streets or highways.~~
 - ~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following such lot lines.~~
 - ~~(c) Boundaries that are indicated as approximately following city, township, or county boundary lines shall be construed as following such city, township, or county boundary lines.~~
 - ~~(d) Boundaries that are indicated as approximately following railroad lines shall be construed to be midway between the main tracks.~~
 - ~~(e) Boundaries that are indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official Rogue river natural river zoning map. If no distance is given, the dimension shall be determined by the use of the scale shown on the official Rogue river natural river zoning map.~~
 - ~~(f) Boundaries that are following the shoreline of a river, stream, lake, or other body of water shall be construed to follow such shoreline and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries that are indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.~~

R 281.204 Zoning permits; application; additional requirements Rescinded.

~~Rule 4. (1) A person shall not commence excavation, erection, alteration, or repair of a building or structure, or commence a land use, until a zoning permit has been obtained from the zoning administrator. If the alterations or ordinary maintenance made on a dwelling does not change the character of the structure or land use, and if the total cost does not exceed 5% of the market value of the structure in any 12-month period, the owner of the structure or land is exempt from obtaining a zoning permit, but may be required to obtain a local building permit from the appropriate local building inspector.~~

~~(2) A written application for a zoning permit shall be filed with the zoning administrator. All of the following information shall be submitted with an application for a zoning permit:~~

~~(a) Two copies of a site plan which gives accurate dimensions on either a scale drawing or a rough sketch and which contains all of the following information:~~

~~(i) The location on the lot of all existing and proposed structures.~~

~~(ii) The existing or intended use of the structure.~~

~~(iii) The generalized vegetative cover.~~

~~(iv) The lines and dimensions of the lot to be used.~~

~~(b) Evidence of ownership of all property that is affected by the coverage of the permit.~~

~~(c) Evidence that all required federal, state, county, and township licenses or permits have been acquired, or that applications have been filed for the required licenses or permits.~~

~~(d) Other information as required by the zoning administrator which is necessary to carry out the intent and provisions of these rules.~~

~~(3) One copy of both the plans and the specifications shall be filed and retained by the zoning administrator, and the other copy shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued the zoning permit. To insure that new land uses in the natural river district are in conformance with these rules, before beginning construction or commencing a land use, the applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed. Failure to obtain and display a permit is a violation of these rules.~~

~~(4) Within 30 days of receipt of a completed application, the zoning administrator shall render a decision to issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(5) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of time not to exceed 6 months. Any subsequent extensions shall have the written approval of the zoning review board.~~

R 281.205 Subdivision of land; plats with preliminary approval Rescinded.

~~Rule 5. (1) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrule (2) of this rule.~~

~~(2) Proposed lots which have preliminary plat approval pursuant to Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.209.~~

R 281.206 Permitted uses Rescinded.

~~Rule 6. (1) The following uses are permitted by the owner upon the owner's property within the natural river district, subject to the limitations and requirements outlined in these zoning rules, local ordinances, and other applicable statutes:~~

~~(a) Private camping and other recreational activities which do not require the installation of permanent structures within 150 feet of the designated mainstream and 100 feet of the designated tributaries.~~

- ~~(b) The operation of motorized watercraft, subject to the limitations of local ordinances established under the authority of Act No. 303 of the Public Acts of 1967, as amended, being S281.1001 et seq. of the Michigan Compiled Laws.~~
- ~~(c) Fishing and hunting in compliance with existing laws and rules.~~
- ~~(d) Reforestation and other accepted forest management practices, subject to the limitations outlined in R 281.207.~~
- ~~(e) Normal agricultural activities, if the activities meet the requirements of these rules, and if the bureau of environmental protection of the department of natural resources determines that such activities do not contribute to stream degradation.~~
- ~~(f) The operation of licensed motor vehicles on dedicated public roads or access roads to private single family dwellings.~~
- ~~(g) Off road operation of emergency and public utility maintenance vehicles.~~
- ~~(2) The following uses are permitted upon approval of the zoning administrator:~~
 - ~~(a) One single family dwelling and appurtenances on a lot not less than 200 front feet wide, subject to the following limitations:~~
 - ~~(i) On the designated portions of the mainstream, the setback shall be 150 feet from the river's edge.~~
 - ~~(ii) On the designated tributaries, the setback shall be 100 feet from the river's edge.~~
 - ~~(iii) Setback shall be not less than 15 feet from side lot lines and not less than 25 feet from the right of way of a public road.~~
 - ~~(iv) New structures shall not be located on land that is subject to flooding.~~
 - ~~(v) New structures shall be set back not less than 50 feet from the top of the bluff on the cutting edges of the river and tributaries.~~
 - ~~(b) Plats, if the minimum setback and lot width requirements specified in subdivision (a) of this subrule are met.~~
 - ~~(c) Private boat docks that are not more than 6 feet in width or 20 feet in length, with not more than 4 feet of the dock extending over the water if the docks are designed, constructed, and maintained with indigenous natural materials and if a permit is issued under the authority of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws.~~
 - ~~(d) Mining and extractive industries which are located more than 300 feet from the ordinary high water mark, if they are constructed and operated pursuant to applicable local ordinances and state laws and rules.~~
 - ~~(e) Utility lines to service private single family dwellings.~~
 - ~~(f) Utility transmission lines or interests in real property which are continuously owned by a utility from January 1, 1971, subject to review and approval by the commission.~~
 - ~~(g) Disposal fields and septic tanks which are located not less than 100 feet from the water's edge and which are in conformance with local county health codes and the provisions of these rules.~~
 - ~~(h) Land alteration such as grading, dredging and filling of the land surface, unless the high groundwater table is within 6 feet of the land surface, if the activities meet all of the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws, and Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and if approval is granted by the local soil erosion and sedimentation control enforcement agency and the department of natural resources.~~
 - ~~(i) Signs and outdoor advertising devices shall meet all of the following requirements:~~
 - ~~(i) They shall be related to permitted uses.~~
 - ~~(ii) They shall be not more than 1 square foot in area for residential uses and not more than 4 square feet in area for any other uses.~~

- ~~(iii) They shall not be illuminated by a neon light or flashing device.~~
- ~~(iv) They shall not be attached to a tree or shrub.~~
- ~~(j) Other uses for which an applicant is granted a permit by the zoning administrator pursuant to R 281.208, R 281.209, and R 281.211.~~

R 281.207 Natural vegetation strip Rescinded.

~~Rule 7. A 50 foot minimum restricted cutting belt shall be maintained on each side of the Rogue river mainstream. For designated Rogue river tributaries, a 25 foot minimum restricted cutting belt shall be maintained on each side of the tributary. Trees and shrubs may be pruned for a filtered view of the river upon approval of the local zoning administrator or the area forester, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to both of the following provisions:~~

- ~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak, may be removed.~~
- ~~(b) Selective removal or trimming of trees for timber harvest, landscaping, or public utility facilities is permitted upon approval of the area forester or local zoning administrator.~~

R 281.208 Special exception permits Rescinded.

~~Rule 8. (1) Special exception permits may be granted to allow a use in the natural river district which is not specifically permitted by R 281.206, if implementation of that use does not contravene the purposes of these rules as specified in R 281.202.~~

~~(2) Applications for a special exception permit shall be made on a form provided by the zoning administrator.~~

~~(3) Upon reviewing an application for a special exception permit, the zoning review board, at any time before rendering a decision thereon, shall require the applicant to furnish all of the following information which the zoning review board deems necessary for determining the suitability of the particular site for the proposed use:~~

- ~~(a) A detailed description of the proposed activity or use.~~
- ~~(b) A surface view plan which gives accurate dimensions on either a scale drawing or a rough sketch and which shows all of the following:~~
 - ~~(i) Elevations or contours of the ground, including existing earth fills.~~
 - ~~(ii) Generalized vegetative cover.~~
 - ~~(iii) Size, location and spatial arrangement of all proposed and existing structures on the site.~~
 - ~~(iv) The location and elevations of streets, access roads, and water supply and sanitary facilities.~~
- ~~(c) Photographs that show existing land uses and vegetation upstream and downstream from the proposed use.~~
- ~~(d) Valley cross sections that show the natural stream channel, streambanks, high water marks, flood marks, if known, and locations of proposed development.~~
- ~~(e) Other information which is deemed relevant by the zoning administrator, and which is necessary to carry out the intent and provisions of these rules.~~

~~(4) Before considering applications, the zoning review board shall give notice, by certified mail, to all of the following:~~

- ~~(a) Property owners and residents whose property is within 500 feet of the proposed use as shown on the current tax assessment rolls.~~
- ~~(b) The appropriate local officials and department of natural resources personnel, including all of the following:~~
 - ~~(i) The township supervisor.~~

- ~~(ii) The township building inspector.~~
- ~~(iii) The county health officer.~~
- ~~(iv) The local soil erosion and sedimentation control enforcement agency.~~
- ~~(v) County and township planning and zoning officials.~~
- ~~(vi) The soil conservation service.~~
- ~~(vii) The regional office and natural rivers section of the department of natural resources.~~
- ~~(c) Any other interested party who requests that they be notified of such applications in the natural river district.~~
- ~~(5) In reviewing an application, the zoning review board shall consider all of the following:~~
 - ~~(a) All relevant factors specified in these rules in the light of the spirit and intent of the purposes specified in R 281.202.~~
 - ~~(b) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely in light of the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact, together with a description of the title history, shall be included in the hearing evidence.~~
 - ~~(c) Increases in flood level and flood damage that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences, and other relevant factors within the terms of these rules.~~
 - ~~(d) The cumulative effect upon the natural river district from the potential development of holdings in a legal position similar to the applicant's, if the applicant's request is approved by the zoning review board.~~
 - ~~(e) Reasonable alternatives that are available to the applicant.~~
- ~~(6) In weighing the applicant's request, consideration of public health, safety, and welfare shall prevail, unless private injury is proved by a preponderance of the evidence to be so great as to override the public interest.~~
- ~~(7) A requested use shall not be granted if the zoning review board determines that the requested use poses a substantial hazard to life or to either public or private property rights.~~
- ~~(8) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 30 days after its receipt, except that if public hearings are held or if additional information is required pursuant to subrule (3) of this rule, the zoning review board shall render a decision within 30 days following the hearings or upon receipt of the last requested item of information.~~
- ~~(9) The zoning review board shall attach such conditions to the granting of a special exception permit as are necessary to further the purposes of these rules.~~
- ~~(10) A special exception use shall adhere strictly to the terms of the special exception permit. A special exception permit that does not adhere strictly to the terms of the permit may be revoked by the zoning administrator.~~

R 281.209 Substandard lots of record Rescinded.

- ~~Rule 9. (1) The zoning administrator, in compliance with the terms of this subrule, shall grant a permit if, because of either of the following circumstances, a proposed structure cannot be erected on a lot of record or a lot described in a deed or land contract executed and delivered before the effective date of this rule:~~
 - ~~(a) The lot is of insufficient width, depth, or area.~~
 - ~~(b) Physical limitations exist on an existing lot or parcel.~~

- ~~(2) The zoning administrator shall ensure that all structures are located to best meet the objectives and purposes of these rules, the adopted Rogue river natural river plan, and Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws.~~
- ~~(3) The zoning administrator shall determine if a proposed structure on a lot of record or on a lot described in a deed or land contract executed and delivered before the effective date of these rules cannot conform to the standards listed in R 281.206(2) and is, therefore, ineligible for consideration for use under R 281.206.~~
- ~~(4) A written application for a zoning permit on a lot of record shall be filed with the zoning administrator. The same information required in R 281.204(2) shall be submitted with an application.~~
- ~~(5) The zoning administrator shall grant a zoning permit for the use of a substandard lot of record only upon a showing of all of the following:~~
 - ~~(a) Granting the permit is not contrary to the public interest.~~
 - ~~(b) The permit does not allow the establishment of a use not otherwise permitted by these rules.~~
 - ~~(c) The permit applies only to the property under the control of the applicant.~~
 - ~~(d) The practical difficulties claimed by the applicant are not the result of actions taken by the applicant.~~
 - ~~(e) Granting the permit poses no substantial hazard to life or to public or private property rights, secures public safety, and does substantial justice.~~
 - ~~(f) Granting the permit will not result in an increase of flood levels or risk of flood damage to other lands.~~
 - ~~(g) The lot shall be developed pursuant to department of natural resources requirements under Act No. 245 of the Public Acts of 1929, as amended, being S323.1 et seq. of the Michigan Compiled Laws.~~
 - ~~(h) Use of the lot will not significantly impair existing water quality, vegetative cover, fisheries, or wildlife habitat or increase the risk of erosion.~~
 - ~~(i) The substandard lot size shall be the minimum dimensional reduction necessary to achieve a reasonable use of the land, after evaluation of alternative dimensional arrangements and permitted land uses available to the applicant, given the peculiar characteristics of the lot and circumstances surrounding the request. Alternatives shall be examined in light of the applicant's entire contiguous holdings and not merely a single lot or the portion within the natural river area. If dimensional requirements may be more nearly met through lot combination of contiguous holdings, the zoning administrator may so require.~~
 - ~~(j) The permit provides that no fill shall be placed within the natural vegetation strip and that the approval of both the appropriate county or district health department and the soil erosion and sedimentation control enforcement agency shall be secured.~~
 - ~~(k) The permit provides conditions necessary to insure proper development of the substandard lot pursuant to these rules.~~
- ~~(6) A special exception permit is required if a dimensional reduction of more than 50% of any of the standards listed in R 281.206(2)(a) is necessary to achieve reasonable use of the land. The zoning review board shall base its decision upon the standards set forth in R 281.208(5).~~
- ~~(7) The zoning administrator may confer with, and seek the advice of, the zoning review board, personnel of the Michigan department of natural resources, and other federal, state, and local officials to determine the possible effects of, and a suitable location for, a proposed structure.~~
- ~~(8) One copy of the plans, specifications, and the zoning permit, with conditions attached, shall be filed and retained by the zoning administrator, and another copy of each shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued a zoning permit.~~

~~(9) The applicant may appeal any decision of the zoning administrator or any conditions attached to a zoning permit to the zoning review board.~~

R 281.210 Nonconforming uses Lower Kalamazoo river system boundaries.

~~Rule 10. (1) The lawful use of any land or structure which is in existence on the effective date of these rules may be continued although the use does not conform with these rules.~~

~~(2) Routine or normal repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition are permitted. Remodeling of nonconforming structures within the confines of the existing foundation and elevations is permitted, if the structure is neither enlarged nor extended, nor its use changed.~~

~~(3) A special exception permit is required for the restoration of a nonconforming building or structure which is damaged or destroyed by more than 50% of its value due to flood, fire, or other means. In determining whether 50% of the value has been destroyed, the zoning review board shall use appraised replacement costs, as determined by a qualified individual appointed by the zoning review board, and shall compare the value of the part destroyed to the value of the total operating unit where there are several buildings or structures which are used together by the landowner as a single operating unit. A request for a permit to restore a nonconforming building or structure which is damaged or destroyed by more than 50% of its value shall be approved if all of the following conditions exist:~~

~~(a) The land on which the building or structure is situated is not subject to flooding.~~

~~(b) The continued use of a nonconforming building or structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the use of the building or structure is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(c) The continued use conforms with local county health codes and is approved by the local county health department.~~

~~(d) The continued use conforms with local building codes and is approved by the local building inspector.~~

~~(e) Restoration of a damaged building or structure, if approved by the zoning review board, shall be started within 1 year from the time of damage.~~

~~(4) A nonconforming use may be changed to a use of a like or similar character, if the new use more closely conforms to the rules of the natural river district.~~

~~(5) A nonconforming use of any land or structure shall not be enlarged nor extended without a special exception permit granted upon consideration of the factors outlined in subrule (3) of this rule. An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation which provides overnight facilities and which does not exceed 12 units may be approved by the zoning review board if the owner submits to the zoning review board a detailed description of the proposed enlargement or extension, together with a site plan showing the location of all new structures or uses, and if the zoning review board determines that all of the following conditions exist:~~

~~(a) The land on which the nonconforming use is situated is not subject to flooding.~~

~~(b) The enlargement or extension of the nonconforming use does not lead to accelerated bank erosion or other material degradation of the river resource, and the enlargement or extension is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(c) The enlargement or extended use conforms with local county health codes and is approved by the local county health department.~~

~~(d) The enlarged or extended use conforms with local building codes and is approved by the local building inspector.~~

~~(e) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.202.~~

~~(6) The substitution of nonconforming structures with new conforming structures may be made if a special exception permit is granted, based on consideration of the factors outlined in subrule (5) of this rule to ensure that the changed use conforms as closely as possible to the purposes of these rules as specified in R 281.202.~~

~~(7) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.~~

~~(8) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on the owner's property.~~

~~Certification of a prior nonconforming use shall be granted if the use meets the criteria of this rule and the common law criteria of nonconforming uses of this state.~~

Rule 160. The boundaries of the lower Kalamazoo river natural river district shall be as described in these rules and as depicted on the certified lower Kalamazoo river natural river zoning map with the effective date of these rules. The lower Kalamazoo river natural river zoning district comprises an area which is described as follows:

(a) The mainstream of the lower Kalamazoo river from Calkins bridge dam at Lake Allegan in section 15, T2N, R14W to the east line of section 22, T3N, R16W including all channels of the mainstream (approximately 22 miles).

(b) Rabbit river from 36th street in section 30, T4N, R13W to its confluence with the Kalamazoo river.

(c) Bear creek from 36th street in section 19, T3N, 13W to its confluence with the Kalamazoo river.

(d) Sand creek from the M-89 bridge in section 3, T2N, R14W to its confluence the Kalamazoo river.

(e) Swan creek from 112th avenue in section 5 T1N, R14W to its confluence with the Kalamazoo river.

(f) Mann creek from 128th avenue in section 28, T3N, R15W to its confluence with the Kalamazoo river.

(g) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (f) of this rule.

(h) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (g) of this rule.

R 281.211 Appeals; contested cases Lower Kalamazoo river system principal uses; natural vegetation strip.

~~Rule 11. An aggrieved party who contests a decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

Rule 161. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 200 feet from the ordinary high-water mark on the mainstream and other designated tributaries, except as described in R

281.57. The setback may be decreased 3 feet for every 1 foot of rise in bank height to a minimum of 75 feet from the ordinary high-water mark.

(ii) A dwelling shall be set back not less than 50 feet from the crest of a bluff on the cutting edge of a stream and not less than 25 feet from the crest of a bluff on the noncutting edge of a stream.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field shall be located not less than 200 feet from the ordinary high-water mark and shall be not less than 50 feet from any surface or subsurface drain that discharges into the Lower Kalamazoo river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and not located within a wetland area.

(iv) An outhouse constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, not located less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Lower Kalamazoo river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) An alternative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries.

(vi) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high-water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high-groundwater table.

(vii) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after the effective date of these rules, with all the following provisions:

(i) Is accessible by a public road or legal easement on at least 1 side of the stream.

(ii) Has at least 150 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 150 feet wide at the minimum building setback line.

(iii) Contains at least 50,000 square feet of area in the natural river district. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area. If a parcel does not have river frontage, and the front line of the parcel is greater than 150 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.

(iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.

(v) A lot that exists on the effective date of these rules shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Lots that are created after the effective date of these rules shall meet the minimum requirements of this rule, except as provided in R 281.56.

(i) Home occupations and home-based occupations, subject to R 281.57.

(j) Land alteration, subject to R 281.57.

(k) Bridges, subject to Rule 281.58.

(l) Forest management activities within the natural vegetation strip, subject to R 281.57.

(m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.

(n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.

(2) Within the lower Kalamazoo river natural river district, a natural vegetation strip that includes the river and all lands within 50 feet of the ordinary high-water mark shall be maintained on each side of the lower Kalamazoo river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.

~~R 281.212 Zoning administrator and zoning review board; appointment; duties~~ **Rescinded.**

~~Rule 12. The commission shall appoint a zoning administrator and a zoning review board to act as its agent to enforce these rules. Their duties shall include, but not be limited to, all of the following:~~

~~(a) The receiving and processing of applications for zoning permits, special exception permits, petitions of appeals, requests for changes, amendments, and supplements.~~

~~(b) The inspecting of sites.~~

~~(c) The issuing or denying of zoning permits, as outlined in these rules.~~

~~(d) Assisting with other matters requiring a decision by the commission.~~

~~R 281.213 Violations~~ **Rescinded.**

~~Rule 13. (1) An alleged violation shall be inspected by the staff of the department of natural resources. If it is found that a violation exists, the department shall order the applicant, in writing, to correct all conditions found to be in violation of these rules.~~

~~(2) The owner of a building, structure, or land that violates these rules is subject to the provisions of section 13 of Act No. 231 of the Public Acts of 1970, being S281.773 of the Michigan Compiled Laws.~~

~~R 281.214 Boundaries and permitted uses; changes, amendments, and supplements~~ **Rescinded.**

~~Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner if~~

~~implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.202.~~

~~(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to section 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws.~~

~~(3) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following:~~

~~(a) The county register of deeds.~~

~~(b) The zoning administrator of these rules.~~

~~(c) Local planning, zoning, and health officials.~~

~~(d) Township and county clerks.~~

~~(e) Local building inspector.~~

~~(f) Local soil erosion and sedimentation control enforcement agencies.~~

~~(g) The soil conservation service.~~

~~(h) Public utility companies which provide service to riverfront property owners affected by these rules.~~

~~(4) Upon approval by the director, a local zoning ordinance which meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and of either Act No. 183 of the Public Acts of 1943, as amended, or Act No. 184 of the Public Acts of 1943, as amended, being S125.201 et seq. and S125.271 et seq. of the Michigan Compiled Laws, whichever is applicable, will take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Rogue river natural river district through court action or by any other reason, these rules shall apply.~~

R 281.220 Fox river system boundaries.

Rule 170. The boundaries of the Fox river natural river district shall be as described in these rules and as depicted on the certified Fox river natural river zoning map with the effective date of these rules. The Fox river natural river zoning district comprises an area described as follows:

(a) All channels of the Fox river mainstream from its source above Casey lake in section 21, T48N, R14W to the confluence with the Lake Branch of the Manistique river in section 25, T45N, R13W.

(b) Casey creek from its source in section 20, T48N, R14W, to its confluence with the Fox river.

(c) West branch from the confluence of Pelican creek in section 26, T48N, R15W, section 26) to its confluence with the Fox river.

(d) Spring ponds (2), 1 mile below the west branch of the Fox river in section 16, T47N, R14W.

(e) Little Fox from the outlet of Stanley lake in section 11 T47N, R15W to its confluence with the Fox river.

(f) Hudson creek from its sources in sections 2 and 11, T46N, R14W to its confluence with the Fox river (all channels).

(g) East Branch from its source above the reservoir in section 1, T47N, R14W to its confluence with the mainstream.(all channels)

(h) Clear creek from its sources in sections 15 and 22, T47N, R13W to its confluence with the east branch Fox river.

(i) Camp Seven creek from its source in section 30, T47N, R13W to its confluence with the east branch Fox river.

(j) Cold creek from its sources in sections 3 and 10, T46N, R13W to its confluence with the east branch (all channels) Fox river.

(k) Spring creek from its source at Spring creek pond in section 7, T46N, R12W to its confluence with Cold creek.

(l) Deer creek from its sources in sections 17 and 18, T46N, R12W and in section 13, T46N, R13W to its confluence with the east branch (all channels) Fox river.

(m) Bev creek from its source in section 21, T46N, R12W to its confluence with the east branch Fox river.

(n) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (m) of this rule.

(o) The lands lying within 400 feet of the river's edge as described in subdivisions (a) to (n) of this rule.

R 281.221 Definitions Fox river system principal uses; natural vegetation strip.

~~Rule 1. As used in these rules:~~

~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit, special exception permit, or variance.~~

~~(b) "Appurtenance" means a structure that is incidental to a dwelling, including, but not limited to, any of the following:~~

~~(i) Garages.~~

~~(ii) Private access roads.~~

~~(iii) Pump houses.~~

~~(iv) Wells.~~

~~(v) Sanitary facilities.~~

~~(vi) Electrical service lines.~~

~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~

~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~

~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~

~~(f) "Commission" means the natural resources commission.~~

~~(g) "Cutting edge of the river" means the edge of the river or stream where the water velocity is such that it may cause soil or streambank erosion.~~

~~(h) "Director" means the director of the department of natural resources.~~

~~(i) "Family" means either of the following:~~

~~(i) One or more persons who are related by blood, legal adoption, or marriage and who occupy a single family dwelling unit with not more than 3 other persons.~~

~~(ii) Not more than 5 unrelated persons who occupy a single family dwelling unit.~~

~~(j) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view.~~

~~"Filtered view of the river" means no clear cutting.~~

~~(k) "Floodplain" means land lying within an identified or documented 100-year floodplain line.~~

~~(l) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.~~

~~(m) "Front" means that side of a lot abutting the river's edge of the mainstream or tributary.~~

~~(n) "Land that is subject to flooding" means that area of land adjoining the designated portions of river and tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies which are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood prone area maps or the federal emergency management agency's special flood hazard boundary maps.~~

~~(o) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~

~~(p) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules, or a lot or parcel described by metes and bounds which has been recorded as required by law.~~

~~(q) "Natural river district" means the Flat river natural river district as described in R 281.223.~~

~~(r) "Ordinary high-water mark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~

~~(s) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.~~

~~(t) "River's edge" means the ordinary high-water mark as used in Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (r) of this rule.~~

~~(u) "Setback" means the horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~

~~(v) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~

~~(w) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~

~~(x) "Structure" means anything that is constructed, erected, or moved to or from any premises which is located above, on, or below the ground, including, but not limited to, roads, signs, billboards, and mobile homes.~~

~~Temporary recreational facilities, including, but not limited to, tents, camper trailers, and recreation vehicles are not considered structures when used less than 30 days per year and located landward of the natural vegetation strip.~~

~~(y) "Zoning administrator" means the administrator of these rules who is appointed by the natural resources commission.~~

~~(z) "Zoning permit" means a standard form which is issued by the zoning administrator upon a determination that the proposed construction and use of land and buildings and structures thereon is in compliance with all provisions of these rules.~~

~~(aa) "Zoning review board" means a group of not less than 3 nor more than 7 people which includes not less than 2 local representatives and 1 department of natural resources representative and which is appointed by the commission to act upon requests for special exceptions.~~

Rule 171. (1) A principal use is allowed by right, but requires the issuance of a zoning permit by the zoning administrator. A principal use includes all of the following:

(a) A single-family dwelling or short-term rental facility with all the following provisions:

(i) The minimum building setback shall be not less than 100 feet from the ordinary high-water mark on the mainstream and other designated tributaries, except as described in R 281.57.

(ii) A dwelling shall be set back not less than 50 feet from the crest of a bluff.

(iii) Building shall not take place on land that is subject to flooding or in any wetland area.

(iv) The natural contour of the face and crest of the bluff shall not be altered.

(v) The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(b) Accessory buildings and appurtenances that meet the setback and other development requirements of subdivision (a) of this subrule.

(c) One private boat dock per parcel, unless otherwise provided for in these rules, subject to R 281.57.

(d) One private river access stairway per parcel, subject to R 281.57.

(e) Utility lines to service a single-family dwelling or short-term rental facility.

(f) A disposal field, septic tank, and outhouse, with all the following provisions:

(i) A septic tank and disposal field meet local health department standards.

(ii) A disposal field located not less than 150 feet from the ordinary high-water mark and not less than 50 feet from any surface or subsurface drain that discharges into the Fox river or its designated tributaries, and not located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(iii) A septic tank shall not be closer to the river than the dwelling it serves and shall not be located within a wetland area.

(iv) An outhouse shall be constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high-water mark and any surface or subsurface drain that discharges into the Fox river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the natural vegetation strip.

(v) Drywells and earth privies are not permitted unless authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.

(vi) Disposal of sludge from any wastewater treatment system is prohibited in the natural river district.

(g) Mining and extracting industries, if all land disturbances, structures, and other activities related to the industry are located more than 300 feet from the ordinary high-water mark.

(h) A land division, if any lot created after the effective date of these rules, with all the following provisions:

- (i) Is accessible by a public road or legal easement on at least 1 side of the stream.**
- (ii) Has at least 330 feet of river frontage (unless a riverfront “common area” subject to a conservation easement is established, or a parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and is at least 330 feet wide at the minimum building setback line.**
- (iii) Contains at least 5 acres of area. Any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area.**
- (iv) Has sufficient depth and upland area to accommodate the required building setbacks pursuant to this rule.**
- (v) A lot that exists on the effective date of these rules shall not be subdivided or reduced in dimension or area below the minimum requirements of this rule. Lots that are created after the effective date of these rules shall meet the minimum requirements of this rule, except as provided in R 281.56.**
- (i) Home occupations and home-based occupations, subject to R 281.57.**
- (j) Land alteration, subject to R 281.57.**
- (k) Bridges, subject to R 281.58.**
- (l) Forest management activities within the natural vegetation strip, subject to R 281.57.**
- (m) A boardwalk that meets the minimum building setback requirements in this subdivision and a boardwalk associated with a footpath to the river’s edge, subject to R 281.57.**
- (n) Bank stabilization and fisheries habitat improvement activities, subject to R 281.57.**
- (2) Within the Fox river natural river district, a natural vegetation strip that includes the river and all lands within 100 feet of the ordinary high-water mark shall be maintained on each side of the Fox river mainstream and all designated tributaries. Cutting in the natural vegetation strip is subject to R 281.57.**

R 281.222 Purpose Rescinded.

~~Rule 2. The commission, on its own motion, in order to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Flat river, a designated natural river, promulgates these zoning rules whose purposes are as follows:~~

- ~~(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to unwise development patterns within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.~~
- ~~(b) To protect the free flowing condition, fish and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Flat river and adjoining land.~~
- ~~(c) To prevent flood damage due to interference with natural floodplain characteristics by excluding developments which are vulnerable to flood damages and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~
- ~~(d) To provide for residential and other compatible, permitted uses that complement the natural characteristics of the natural river system.~~
- ~~(e) To protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~

R 281.223 Boundaries; rules of construction; display and filing of zoning map; effect of zoning rules **Rescinded**.

~~Rule 3. (1) The boundaries of the Flat river natural river district shall be as described in these rules and as depicted on the certified Flat river natural river zoning map. The Flat river natural river zoning district comprises an area which is described as follows:~~

~~(a) The mainstream of the Flat river from the Montcalm/Ionia county line to the northern limits of the city of Lowell, excluding those portions which flow through the incorporated city limits of Belding.~~

~~(b) Dickerson creek from the Montcalm/Ionia county line to its confluence with the Flat river.~~

~~(c) Wabasis creek from Mills avenue, Oakfield township, to the Kent/Montcalm county line.~~

~~(d) Coopers creek from Lincoln Lake avenue, Spencer township, to the Kent/Montcalm county line.~~

~~(e) Clear creek from Lincoln Lake avenue, Spencer township, to the Kent/Montcalm county line.~~

~~(f) The lands lying within 300 feet of the river's edge which are enumerated in subdivisions (a) to (e) of this subrule.~~

~~(2) Certified copies of the Flat river natural river zoning map shall be filed with the local tax assessing officers and with the state tax commission, and additional display copies shall be provided to local officials in the Flat river area, including all of the following:~~

~~(a) County register of deeds.~~

~~(b) Zoning administrator of these rules.~~

~~(c) Local planning, zoning, and health officials.~~

~~(d) Township and county clerks.~~

~~(e) Local building inspector.~~

~~(f) Local soil erosion and sedimentation control enforcement agencies.~~

~~(g) The soil conservation service.~~

~~(h) Soil conservation district.~~

~~(i) West Michigan regional planning commission.~~

~~(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within the natural river district, except that if these rules impose greater restrictions than those found on such easements, covenants, or deeds, the provisions of these rules shall prevail.~~

~~(4) These zoning rules do not permit actions prohibited by other statutes or ordinances which are applicable to the natural river district. These include state and federal statutes, rules, and regulations dealing with dredge and fill activities, floodplains and wetlands protection, and soil erosion and sedimentation control and construction in streams, and local zoning ordinances, health codes, and building codes, including requirements for permits and approvals.~~

~~(5) If uncertainty exists with respect to the boundaries indicated on the Flat river natural river zoning map, all of the following rules shall apply:~~

~~(a) Boundaries that are indicated as approximately following streets or highways shall be construed to be the center lines of the streets or highways.~~

~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following such lot lines.~~

~~(c) Boundaries that are indicated as approximately following city, township, or county boundary lines shall be construed as following such city, township, or county boundary lines.~~

- ~~(d) Boundaries that are indicated as approximately following railroad lines shall be construed to be midway between the main tracks.~~
- ~~(e) Boundaries that are indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official Flat river natural river zoning map. If no distance is given, the dimension shall be determined by the use of the scale shown on the official Flat river natural river zoning map.~~
- ~~(f) Boundaries that follow the shoreline of a river, stream, lake, or other body of water shall be construed to follow such shoreline and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries that are indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.~~

R 281.224 Zoning permits; applications; additional requirements Rescinded.

~~Rule 4. (1) A person shall not commence excavation, erection, alteration, or repair on a building or structure or commence a land use until a zoning permit has been obtained from the zoning administrator. If the alteration or ordinary maintenance made on a dwelling does not change the character of the structure or land use and does not enlarge or extend the structure or use beyond the confines of the existing foundation or elevation, the owner of the structure or land is exempt from obtaining a zoning permit, but may be required to obtain a local building permit from the appropriate local building inspector.~~

~~(2) A zoning permit application shall be filed with the zoning administrator. This application is available from the zoning administrator. All of the following information shall be submitted on or with the application:~~

~~(a) Two copies of a site plan which give accurate dimensions on either a scale drawing or a rough sketch and which contain all of the following information:~~

- ~~(i) The location on the lot of all existing and proposed structures.~~
- ~~(ii) The location and general type of trees, shrubs, and other similar vegetation.~~
- ~~(iii) The lines and dimensions of the lot to be used.~~

~~(b) The intended use of proposed structures.~~

~~(c) Evidence of ownership of all property affected by the coverage of the permit.~~

~~(d) Evidence that all required federal, state, county, and township licenses or permits have been acquired or that applications have been filed for the licenses or permits.~~

~~(e) Other information, as required by the zoning administrator, which is necessary to carry out the intent and provisions of these rules. The zoning administrator shall notify the applicant of the need for additional information within 15 days of the receipt of an application.~~

~~(3) One copy of both site plans and specifications shall be filed and retained by the zoning administrator, and the other copy shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued the zoning permit.~~

~~To ensure that new land uses in the natural river district are in conformance with these rules, before beginning construction or commencing a land use, the applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed. Failure to obtain and display a permit is a violation of these rules.~~

~~(4) Within 30 days of receipt of a completed application, the zoning administrator shall render a decision to issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(5) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of time not to exceed 6 months. Any subsequent extensions shall have the written approval of the zoning review board.~~

R 281.225 Subdivision of land; plats with preliminary approval ~~Rescinded.~~

~~Rule 5. (1) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrule (2) of this rule.~~

~~(2) Proposed lots which have preliminary plat approval pursuant to Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.229.~~

R 281.226 Permitted uses ~~Rescinded.~~

~~Rule 6. (1) The following uses are permitted by the owner upon the owner's property within the natural river district, subject to the limitations and requirements outlined in these zoning rules, local ordinances, and other applicable statutes:~~

~~(a) Private camping and other recreational activities which do not require the installation of permanent structures and which are outside of the natural vegetation strip.~~

~~(b) The operation of watercraft, subject to the limitations of local ordinances established under the authority of Act No. 303 of the Public Acts of 1967, as amended, being S281.1001 et seq. of the Michigan Compiled Laws.~~

~~(c) Fishing and hunting in compliance with existing laws and rules.~~

~~(d) Reforestation and other accepted forest management practices, subject to the limitations outlined in R 281.227.~~

~~(e) Acceptable agricultural practices, if the practices meet the requirements of these rules, unless the bureau of environmental protection of the department of natural resources determines that such activities contribute to stream degradation.~~

~~(f) The operation of licensed motor vehicles on dedicated public roads or access roads to private single family dwellings.~~

~~(g) Off road operation of emergency and public utility maintenance vehicles. Operation of other motorized vehicles off road is prohibited within the natural vegetation strip.~~

~~(h) Private footpaths that are constructed by the landowner of natural materials to facilitate permitted uses.~~

~~(2) The following uses are permitted upon prior approval of the zoning administrator:~~

~~(a) One single family dwelling and appurtenances on a lot not less than 100 front feet wide, subject to the following limitations:~~

~~(i) On all streams within the natural river district, new buildings and appurtenances shall be required to set back a minimum of 100 feet from the ordinary high water mark, or 25 feet from an identified or documented 100 year floodplain line, whichever results in the greatest distance from the edge of the river.~~

~~(ii) New buildings and appurtenances shall be set back not less than 50 feet from the top of a bluff.~~

~~(iii) Setback shall be not less than 15 feet from side lot lines and not less than 25 feet from the right of way of a public road.~~

- ~~(iv) New structures shall not be located on land that is subject to flooding.~~
- ~~(b) Plats, if the minimum setbacks and lot width requirements specified in subdivision (a) of this subrule are met.~~
- ~~(c) Private boat docks that do not exceed 4 feet in width or 16 feet in length, with not more than 4 feet of the dock extending from the riverbank, if designed, constructed, and maintained to blend with the natural surroundings, and if a permit is issued under the authority of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws. The use of natural, indigenous materials is encouraged.~~
- ~~(d) Mining and extracting industries which are located more than 300 feet from the ordinary high water mark, if they are constructed and operated pursuant to applicable local ordinances and state laws and rules.~~
- ~~(e) Utility lines to service private single family dwellings.~~
- ~~(f) Utility transmission lines on lands or interests in real property which are continuously owned by a utility from January 1, 1971, subject to review and approval by the commission.~~
- ~~(g) Disposal fields and septic tanks which are located not less than 100 feet from the ordinary high water mark or on an identified 100 year floodplain line, whichever distance is greater, and which are in conformance with local county health codes and these rules. In addition, a septic tank or absorption field shall not be closer than 100 feet to any surface or subsurface drainage system emptying into the Flat river or its designated tributaries. The bottom of an earth privy shall not be less than 4 feet above the known high groundwater table.~~
- ~~(h) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the land surface, if the activities meet all of the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws, Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, Act No. 203 of the Public Acts of 1979, being S281.701 et seq. of the Michigan Compiled Laws, and Act No. 245 of the Public Acts of 1929, as amended, being S323.1 et seq. of the Michigan Compiled Laws, and if approval is granted by the local soil erosion and sedimentation control enforcement agency and the department of natural resources.~~
- ~~(i) Signs and outdoor advertising devices shall meet the following requirements:~~
 - ~~(i) They shall be related to permitted uses.~~
 - ~~(ii) For residential uses, they shall not be larger than 1 square foot in area and not posted more than 1 per 100 feet or 1 sign at the upstream and downstream corner of the lot; however, 1 temporary real estate "for sale" sign which does not exceed 4 square feet in area shall be allowed on a parcel of land outside of the natural vegetation strip.~~
 - ~~(iii) They shall be stationary and with no moving parts.~~
 - ~~(iv) They shall not be illuminated by a neon light or flashing device.~~
 - ~~(v) They shall not be attached to a tree or shrub.~~
- ~~(j) Other uses for which an applicant is granted a permit by the zoning administrator pursuant to R 281.228, R 281.229, and R 281.230.~~

R 281.227 Natural vegetation strip Rescinded.

~~Rule 7. Within the natural river district, a 25 foot minimum restrictive cutting belt shall be maintained on each side of the mainstream of the Flat river and its designated tributaries. Trees and shrubs may be pruned for a filtered view of the river, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to both of the following provisions:~~

- ~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak, may be removed.~~
- ~~(b) Selected removal or trimming of trees for timber harvest, access or woodlot improvement, landscaping, or public utility lines to service private single family dwellings is permitted upon approval of the area forester or zoning administrator.~~

R 281.228 Special exception permits Rescinded.

- ~~Rule 8. (1) Special exception permits may be granted to allow a use in the natural river district which is not specifically permitted by R 281.226 if implementation of that use does not contravene the purposes of these rules as specified in R 281.222.~~
- ~~(2) Application for a special exception permit shall be made on a form provided by the zoning administrator.~~
- ~~(3) Upon reviewing an application for a special exception permit, the zoning review board, at any time before rendering a decision thereon, shall require the applicant to furnish such of the following information which the zoning review board deems necessary for determining the suitability of the particular site for the proposed use:~~
 - ~~(a) A detailed description of the proposed activity or use.~~
 - ~~(b) A surface view plan which gives accurate dimensions on either a scale drawing or a rough sketch and which shows all of the following:~~
 - ~~(i) Elevations or contours of the ground, including existing earth fills.~~
 - ~~(ii) Generalized vegetative cover.~~
 - ~~(iii) The size, location, and spatial arrangement of all proposed and existing structures on the site.~~
 - ~~(iv) The location and elevations of streets, access roads, and water supply and sanitary facilities.~~
 - ~~(c) Photographs that show existing land uses and vegetation upstream and downstream from the proposed use.~~
 - ~~(d) Valley cross sections that show the natural stream channel, streambanks, high water marks, flood marks, if known, and locations of proposed developments.~~
 - ~~(e) All other information which is deemed relevant by the zoning administrator and which is necessary to carry out the intent and provisions of these rules. The zoning administrator shall notify the applicant of the need for additional information within 15 days of the receipt of an application.~~
- ~~(4) Before considering applications, the zoning review board shall give notice, by certified mail, to all of the following:~~
 - ~~(a) Property owners whose property is within 500 feet of the proposed use as shown on the current tax assessment rolls.~~
 - ~~(b) The appropriate local officials and department of natural resources personnel, including all of the following:~~
 - ~~(i) The township supervisor.~~
 - ~~(ii) The township building inspector.~~
 - ~~(iii) The county health officer.~~
 - ~~(iv) The local soil erosion and sedimentation control enforcement agency.~~
 - ~~(v) County and township planning and zoning officials.~~
 - ~~(vi) The soil conservation service.~~
 - ~~(vii) The regional office and natural rivers section of the department of natural resources.~~
 - ~~(viii) Soil conservation district.~~
 - ~~(ix) West Michigan regional planning commission.~~

- ~~(c) Any other interested parties who request that they be notified of such applications in the natural river district.~~
- ~~(5) In reviewing an application, the zoning review board shall consider all of the following:~~
 - ~~(a) All relevant factors specified in these rules in light of the spirit and intent of the purposes specified in R 281.222.~~
 - ~~(b) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact, together with a description of the title history, shall be included in the hearing evidence.~~
 - ~~(c) Increases in flood levels and flood damages that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences, and other relevant factors within the terms of these rules.~~
 - ~~(d) The cumulative effect upon the natural river district from the potential development of holdings in a legal position similar to the applicant's, if the applicant's request is approved by the zoning review board.~~
 - ~~(e) Reasonable alternatives that are available to the applicant.~~
- ~~(6) In weighing the applicant's request, consideration of public health, safety, and welfare shall prevail, unless private injury is proven by a preponderance of the evidence to be so great as to override the public interest.~~
- ~~(7) A requested use shall not be granted if the zoning review board determines that the requested use poses a substantial hazard to life or to public or private property rights.~~
- ~~(8) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 30 days after its receipt, except that if public hearings are held or if additional information is required pursuant to subrule (3) of this rule, the zoning review board shall render a decision within 30 days following the hearings or receipt of the last requested item of information.~~
- ~~(9) The zoning review board shall attach such conditions to the granting of a special exception permit as are necessary to further the purposes of these rules.~~
- ~~(10) A special exception use shall adhere strictly to the terms of the special exception permit. A special exception use that does not adhere strictly to the terms of the permit may be revoked by the zoning administrator.~~

R 281.229 Substandard lots of record Rescinded.

- ~~Rule 9. (1) The zoning administrator, in compliance with the terms of this subrule, shall grant a permit if, because of either of the following circumstances, a proposed structure cannot be erected on a lot of record or a lot described in a deed or land contract executed and delivered before the effective date of this rule:~~
- ~~(a) The lot is of insufficient width, depth, or area.~~
 - ~~(b) Physical limitations exist on an existing lot or parcel.~~
- ~~(2) The zoning administrator shall ensure that all structures are located to best meet the objectives and purposes of these rules, the adopted Flat river natural river plan, and Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws.~~
- ~~(3) The zoning administrator shall determine if a proposed structure on a lot of record or on a lot described in a deed or land contract executed and delivered before the effective date of these rules cannot conform to the standards listed in R 281.226(2)(a) and is, therefore, ineligible for consideration for use under R 281.226.~~

~~(4) A written application for a zoning permit on a lot of record shall be filed with the zoning administrator. The same information required in R 281.224(2) shall be submitted with an application.~~

~~(5) The zoning administrator shall grant a zoning permit for the use of a substandard lot of record only upon a showing of all of the following:~~

~~(a) Granting the permit is not contrary to the public interest.~~

~~(b) The permit does not allow the establishment of a use not otherwise permitted by these rules.~~

~~(c) The permit applies only to the property under the control of the applicant.~~

~~(d) The practical difficulties claimed by the applicant are not the result of actions taken by the applicant.~~

~~(e) Granting the permit poses no substantial hazard to life or to public or private property rights, secures public safety, and does substantial justice.~~

~~(f) Granting the permit will not result in an increase of flood levels or risk of flood damage to other lands.~~

~~(g) The lot shall be developed pursuant to department of natural resources requirements under Act No. 245 of the Public Acts of 1929, as amended, being S323.1 et seq. of the Michigan Compiled Laws.~~

~~(h) Use of the lot will not significantly impair existing water quality, vegetative cover, fisheries, or wildlife habitat or increase the risk of erosion.~~

~~(i) The substandard lot size shall be the minimum dimensional reduction necessary to achieve a reasonable use of the land, after evaluation of alternative dimensional arrangements and permitted land uses available to the applicant, given the peculiar characteristics of the lot and circumstances surrounding the request. Alternatives shall be examined in light of the applicant's entire contiguous holdings and not merely a single lot or the portion within the natural river area. If dimensional requirements may be more nearly met through lot combination of contiguous holdings, the zoning administrator may so require.~~

~~(j) The permit provides that no fill shall be placed within the natural vegetation strip and that the approval of both the appropriate county or district health department and the soil erosion and sedimentation control enforcement agency shall be secured.~~

~~(k) The permit provides conditions necessary to ensure the proper development of the substandard lot pursuant to these rules.~~

~~(6) A special exception permit is required if a dimensional reduction of more than 50% of any of the standards listed in R 281.226(2)(a) is necessary to achieve a reasonable use of the land. The zoning review board shall base its decision upon the standards set forth in R 281.228(5).~~

~~(7) The zoning administrator may confer with, and seek the advice of, the zoning review board, personnel of the Michigan department of natural resources, and other federal, state, and local officials to determine the possible effects of, and a suitable location for, a proposed structure.~~

~~(8) One copy of the plans, specifications, and the zoning permit, with conditions attached, shall be filed and retained by the zoning administrator, and another copy of each shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued a zoning permit.~~

~~(9) The applicant may appeal any decision of the zoning administrator or any conditions attached to a zoning permit under authority of the provisions of this rule to the zoning review board.~~

R 281.230 Nonconforming uses **Rescinded.**

~~Rule 10. (1) The lawful use of any land or structure which is in existence on the effective date of these rules may be continued although the use does not conform to these rules.~~

~~(2) Routine or normal repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition are permitted. Remodeling of nonconforming structures within the confines of the existing foundation and elevations is permitted if the structure is neither enlarged nor extended and its use is not changed.~~

~~(3) A special exception permit is required for the restoration of a nonconforming building or structure which is damaged or destroyed by more than 50% of its value due to flood, fire, or other means. In determining whether 50% of the value has been destroyed, the zoning review board shall use appraised replacement costs, as determined by a qualified individual appointed by the zoning review board, and shall compare the value of the part destroyed to the value of the total operating unit where there are several buildings or structures which are used together by the landowner as a single operating unit. A request for a permit to restore a nonconforming building or structure damaged or destroyed by more than 50% of its value shall be approved if all of the following conditions exist:~~

~~(a) The land on which the building or structure is situated is not subject to flooding.~~

~~(b) The continued use of a nonconforming building or structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the use of the building or structure is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(c) The continued use conforms with local county health codes and is approved by the local county health department.~~

~~(d) The continued use conforms with local building codes and is approved by the local building inspector.~~

~~(e) Restoration of a damaged building or structure, if approved by the zoning review board, shall be started within 1 year after the time of damage.~~

~~(4) A nonconforming use may be changed to a use of a like or similar character if the new use more closely conforms to the rules of the natural river district.~~

~~(5) A nonconforming use of any land or structure shall not be enlarged or extended without a special exception permit granted upon consideration of the factors outlined in subrule (3) of this rule. An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation which provides overnight facilities and which does not exceed 12 units may be approved by the zoning review board if the owner submits to the zoning review board a detailed description of the proposed enlargement or extension, together with a site plan showing the location of all new structures or uses, and if the zoning review board determines that all of the following conditions exist:~~

~~(a) The land on which the nonconforming use is situated is not subject to flooding.~~

~~(b) The enlargement or extension of the nonconforming use does not lead to accelerated bank erosion or other material degradation of the river resource, and the enlargement or extension is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(c) The enlargement or extended use conforms with local county health codes and is approved by the local county health department.~~

~~(d) The enlarged or extended use conforms with local building codes and is approved by the local building inspector.~~

~~(e) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.222.~~

~~(6) The substitution of a nonconforming use with another nonconforming use may be made if a special exception permit is granted, based upon consideration of the factors outlined in subrule~~

~~(5) of this rule, to ensure that the changed use conforms as closely as possible to the purposes of these rules as specified in R 281.222.~~

~~(7) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.~~

~~(8) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on the owner's property.~~

~~Certification of a prior nonconforming use shall be granted if the use meets the criteria of this rule and the common law criteria of nonconforming uses of this state.~~

R 281.231 Appeals; contested cases Rescinded.

~~Rule 11. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

R 281.232 Zoning administrator and zoning review board; appointment; duties Rescinded.

~~Rule 12. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.~~

~~(2) The duties of the zoning administrator include, but are not limited to, all of the following:~~

~~(a) Receiving and processing applications for zoning permits, special exception permits, petitions for appeals, and requests for changes, amendments, and supplements.~~

~~(b) Inspecting sites.~~

~~(c) Issuing or denying zoning permits as outlined in these rules.~~

~~(d) Assisting with other matters requiring a decision by the commission.~~

~~(3) It shall be the duty of the zoning review board to act upon requests for special exception permits. In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following:~~

~~(a) Affected townships and counties.~~

~~(b) Soil conservation districts.~~

~~(c) Property owners' associations.~~

~~(d) Other interested local organizations and citizens.~~

~~(4) The commission shall request each affected township to appoint 1 person to represent its interests on matters within its jurisdiction. The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official working in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The commission shall request each affected soil conservation district to appoint 1 person to represent its interests on matters within its jurisdiction. Representatives appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.~~

R 281.233 Violations Rescinded.

~~Rule 13. (1) An alleged violation shall be inspected by the staff of the department and, if it is determined that a violation exists, the department shall order the applicant, in writing, to correct all conditions found to be in violation of these rules.~~

~~(2) The owner of a building or structure or land which violates these rules is subject to the provisions of section 13 of Act No. 231 of the Public Acts of 1970, being S281.773 of the Michigan Compiled Laws.~~

R 281.234 Boundaries and permitted uses; changes, amendments, and supplements Rescinded.

~~Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.222.~~

~~(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws.~~

~~(3) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following:~~

- ~~(a) The county register of deeds.~~
- ~~(b) The zoning administrator of these rules.~~
- ~~(c) Local planning, zoning, and health officials.~~
- ~~(d) Township and county clerks.~~
- ~~(e) The local building inspector.~~
- ~~(f) Local soil erosion and sedimentation control enforcement agencies.~~
- ~~(g) The soil conservation service.~~
- ~~(h) Public utility companies which provide service to riverfront property owners affected by these rules.~~
- ~~(i) Soil conservation district.~~
- ~~(j) West Michigan regional planning commission.~~
- ~~(4) Upon approval by the director, a local zoning ordinance which meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Flat river natural river district through court action or for any other reason, these rules shall apply.~~

R 281.251 Definitions Rescinded.

~~Rule 1. As used in these rules:~~

- ~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit, special exception permit, or variance.~~
- ~~(b) "Appurtenance" means a structure that is incidental to a dwelling, including, but not limited to, garages, private access roads, pump houses, wells, sanitary facilities, and electrical service lines.~~
- ~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~
- ~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~

- ~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~
- ~~(f) "Commission" means the natural resources commission.~~
- ~~(g) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~
- ~~(h) "Director" means the director of the department of natural resources.~~
- ~~(i) "Family" means either of the following:~~
 - ~~(i) One or more persons who are related by blood, legal adoption, or marriage and who occupy a single family dwelling unit with not more than 3 other persons.~~
 - ~~(ii) Not more than 5 unrelated persons who occupy a single family dwelling unit.~~
- ~~(j) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.~~
- ~~(k) "Front" means that side of a lot abutting the river's edge of the mainstream or tributary.~~
- ~~(l) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~
- ~~(m) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules, or a lot or parcel described by metes and bounds which has been recorded as required by law.~~
- ~~(n) "Natural river district" means the Boardman river natural river district as described in R 281.253(1).~~
- ~~(o) "Ordinary high water mark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~
- ~~(p) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.~~
- ~~(q) "River's edge" means the ordinary high water mark as used in Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (o) of this rule.~~
- ~~(r) "Setback" means the horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~
- ~~(s) "Single family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~
- ~~(t) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~
- ~~(u) "Structure" means anything that is constructed, erected, or moved to or from any premise which is located above, on, or below the ground, including, but not limited to, roads, signs, billboards, and mobile homes.~~

Temporary recreational facilities, including, but not limited to, tents, camper trailers, and recreation vehicles are not considered structures when used less than 30 days per year and located landward of the natural vegetation strip.

~~(v) "Zoning administrator" means the administrator of these rules who is appointed by the natural resources commission.~~

~~(w) "Zoning permit" means a standard form which is issued by the zoning administrator upon a determination that the proposed use of land and the proposed construction of buildings and structures thereon are in compliance with all provisions of these rules.~~

~~(x) "Zoning review board" means a group of not less than 5 nor more than 9 people which includes not less than 3 local representatives and 1 department of natural resources representative and which is appointed by the commission to act upon requests for special exceptions.~~

R 281.252 Purpose Rescinded.

~~Rule 2. The commission, on its own motion, in order to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Boardman river, a designated natural river, promulgates these zoning rules whose purposes are as follows:~~

~~(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to unwise development patterns within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.~~

~~(b) To protect the free flowing condition, fish and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Boardman river and adjoining land.~~

~~(c) To prevent flood damage due to interference with natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~

~~(d) To provide for residential and other compatible, permitted uses that complement the natural characteristics of the natural river system.~~

~~(e) To protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~

R 281.253 Boundaries; rules of construction; display and filing of zoning map; effect of zoning rules Rescinded.

~~Rule 3. (1) The boundaries of the Boardman river natural river district shall be as described in these rules and as depicted on the certified Boardman river natural river zoning map. The Boardman river natural river district comprises an area which is described as follows:~~

~~(a) Mainstream of Boardman river above Brown bridge dam to Forks.~~

~~(b) Mainstream of Boardman river from the north boundary of Grand Traverse county property in section 27, T27N, R11W, Garfield township to Brown bridge dam, section 15, T26N, R10W, East Bay township.~~

~~(c) North branch from Forks to U.S. 131 in Kalkaska county.~~

~~(d) South branch from Forks to U.S. 131 in Kalkaska county.~~

~~(e) Beitner creek to Sawyer road in section 8, and south to the south line of section 9, T26N, R11W, Blair township.~~

~~(f) Jackson creek to the south line of section 31, T26N, R10W, Paradise township.~~

~~(g) Swainston creek to the west line of section 8, T25N, R10W, Paradise township.~~

~~(h) Jackson creek to Wood road, section 14, T25N, R10W, Paradise township.~~

~~(i) East creek to Bancroft and Parker creeks, section 36, T26N, R10W, Paradise township.~~

- ~~(j) Parker creek to the east-west centerline of section 31, T26N, R9W, Union township.~~
- ~~(k) Bancroft creek to Sparling road, section 7, T25N, R9W, Fife lake township.~~
- ~~(l) Carpenter creek to county road 660, section 13, T26N, R9W, Union township.~~
- ~~(m) Twenty-two creek to the east line of section 27, T26N, R9W, Union township.~~
- ~~(n) Taylor creek to U.S. 131, section 15, T26N, R9W, Boardman township.~~
- ~~(o) Crofton creek to U.S. 131, section 2, T26N, R8W, Boardman township.~~
- ~~(p) Failing creek to U.S. 131, section 30, T27N, R7W, Kalkaska township.~~
- ~~(q) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (p) of this subrule.~~
- ~~(2) Certified copies of the Boardman river natural river zoning map shall be filed with the local tax assessing officers and with the state tax commission, and additional display copies shall be provided to local officials in the Boardman river area, including all of the following:~~
 - ~~(a) County register of deeds.~~
 - ~~(b) Zoning administrator of these rules.~~
 - ~~(c) Local planning, zoning, and health officials.~~
 - ~~(d) Township and county clerks.~~
 - ~~(e) Local building inspector.~~
 - ~~(f) Local soil erosion and sedimentation control enforcement agencies.~~
 - ~~(g) The soil conservation service.~~
 - ~~(h) Boardman river advisory council.~~
- ~~(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within the natural river district, except that if these rules impose greater restrictions than those found on such easements, covenants, or deeds, the provisions of these rules shall prevail.~~
- ~~(4) These zoning rules do not permit actions prohibited by other statutes or ordinances, including any zoning ordinances, which are applicable to the natural river district. Therefore, all of the following provisions apply:~~
 - ~~(a) All earth-changing activities, other than normal landscaping or maintenance, that are undertaken within 500 feet of a lake or stream are subject to the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~
 - ~~(b) All dredge and fill activities and construction of permanent structures lying below the ordinary high-water mark are subject to the provisions of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws.~~
 - ~~(c) All development and land uses in the Boardman river natural river district are subject to the provisions of appropriate local zoning ordinances, health codes, and building codes, including requirements for permits and approvals.~~
- ~~(5) If uncertainty exists with respect to the boundaries indicated on the Boardman river natural river zoning map, all of the following rules shall apply:~~
 - ~~(a) Boundaries that are indicated as approximately following streets or highways shall be construed to be the center lines of the streets or highways.~~
 - ~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following such lot lines.~~
 - ~~(c) Boundaries that are indicated as approximately following city, township, or county boundary lines shall be construed as following such city, township, or county boundary lines.~~
 - ~~(d) Boundaries that are indicated as approximately following railroad lines shall be construed to be midway between the main tracks.~~

~~(e) Boundaries that are indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official Boardman river natural river zoning map. If no distance is given, the dimension shall be determined by the use of the scale shown on the official Boardman river natural river zoning map.~~

~~(f) Boundaries that follow the shoreline or a river, stream, lake, or other body of water shall be construed to follow such shoreline and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries that are indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.~~

R 281.254 Zoning permits; application; additional requirements ~~Rescinded.~~

~~Rule 4. (1) A person shall not commence excavation, erection, alteration, or repair of a building or structure, or commence a land use, until a zoning permit has been obtained from the zoning administrator. If the alterations or ordinary maintenance made on a dwelling does not change the character of the structure or land use, and if the total cost does not exceed 5% of the market value of the structure in any 12 month period, the owner of the structure or land is exempt from obtaining a zoning permit, but may be required to obtain a local building permit from the appropriate local building inspector.~~

~~(2) A written application for a zoning permit shall be filed with the zoning administrator. All of the following information shall be submitted with an application for a zoning permit:~~

~~(a) Two copies of a site plan which gives accurate dimensions on either a scale drawing or a rough sketch and which contain all of the following information:~~

~~(i) The location on the lot of all existing and proposed structures.~~

~~(ii) The existing or intended use of the structure.~~

~~(iii) The generalized vegetative cover.~~

~~(iv) The lines and dimensions of the lot to be used.~~

~~(b) Evidence of ownership of all property that is affected by the coverage of the permit.~~

~~(c) Evidence that all required federal, state, county, and township licenses or permits have been acquired, or that applications have been filed for the required licenses and permits.~~

~~(d) Other information as required by the zoning administrator, which is necessary to carry out the intent and provisions of these rules.~~

~~(3) One copy of both the plans and the specifications shall be filed and retained by the zoning administrator, and the other copy shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued the zoning permit.~~

~~To insure that new land uses in the natural river district are in conformance with these rules, before beginning construction or commencing a land use, the applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall~~

~~display it continuously until the purpose for which the permit was issued is completed. Failure to obtain and display a permit is a violation of these rules.~~

~~(4) Within 30 days of receipt of a completed application, the zoning administrator shall render a decision to issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(5) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of time not to exceed 6 months.~~

~~Any subsequent extensions shall have the written approval of the zoning review board.~~

R 281.255 Subdivision of land; plats with preliminary approval ~~Rescinded.~~

~~Rule 5. (1) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrule (2) of this rule.~~

~~(2) Proposed lots that have preliminary plat approval pursuant to Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on the effective date shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.259.~~

R 281.256 Permitted uses ~~Rescinded.~~

~~Rule 6. (1) The following uses are permitted by the owner upon the owner's property within the natural river district, subject to the limitations and requirements outlined in these zoning rules, local ordinances, and other applicable statutes:~~

~~(a) Private camping and other recreational activities which do not require the installation of permanent structures and which are outside of the natural vegetation strip.~~

~~(b) The operation of watercraft, subject to the limitations of local ordinances established under the authority of Act No. 303 of the Public Acts of 1967, as amended, being S281.1001 et seq. of the Michigan Compiled Laws.~~

~~(c) Fishing and hunting in compliance with existing laws and rules.~~

~~(d) Reforestation and other accepted forest management practices, subject to the limitations outlined in R 281.257.~~

~~(e) Normal agricultural activities, if the activities meet the requirements of these rules, and if the bureau of environmental protection of the department of natural resources determines that such activities do not contribute to stream degradation.~~

~~(f) The operation of licensed motor vehicles on dedicated public roads or access roads to private single family dwellings.~~

~~(g) Off road operation of emergency and public utility maintenance vehicles.~~

~~(h) Private footpaths that are constructed by the landowner of natural materials to facilitate permitted uses.~~

~~(2) The following uses are permitted upon prior approval of the zoning administrator:~~

~~(a) One single family dwelling and appurtenances on a lot not less than 200 front feet wide and 200 feet deep, subject to the following limitations:~~

~~(i) On the mainstream portion of the Boardman river described in R 281.253(1)(a), new buildings and appurtenances shall be required to set back not less than 150 feet from the river's edge.~~

~~(ii) On the mainstream portion of the Boardman river and all tributaries described in R 281.253(1)(b) to (p), new buildings and appurtenances shall be required to set back not less than 100 feet from the river's edge.~~

~~(iii) New structures shall be set back not less than 50 feet from the top of the bluff on the cutting edges of the river and tributaries, or 25 feet from the top of the bluff on the noncutting edge of the stream.~~

~~(iv) Set back shall be not less than 15 feet from side lot lines and not less than 25 feet from the right of way of a public road.~~

~~(v) New structures shall not be located on land that is subject to flooding.~~

- ~~(b) Plats, if the minimum setbacks and lot width requirements specified in subdivision (a) on this subrule are met.~~
- ~~(c) Private boat docks that are not more than 10 feet in length, with none of the dock extending over the water, if they are designed, constructed, and maintained with indigenous natural materials, and if a permit is issued under the authority of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws.~~
- ~~(d) Mining and extracting industries which are located more than 300 feet from the ordinary high water mark, if they are constructed and operated pursuant to applicable local ordinances and state laws and rules.~~
- ~~(e) Utility lines to service private single family dwellings.~~
- ~~(f) Utility transmission lines on lands or interests in real property which are continuously owned by a utility from January 1, 1971, subject to review and approval by the commission.~~
- ~~(g) Disposal fields and septic tanks which are located not less than 100 feet from the ordinary high water mark or on lands that are not subject to flooding, whichever distance is greater, and which are in conformance with local county health codes and these rules. In addition, a septic tank or absorption field shall not be closer than 50 feet to any surface or subsurface drainage system emptying into the Boardman river or its designated tributaries.~~
- ~~(h) Land alteration, such as grading, dredging and filling of the land surface, unless the high groundwater table is within 6 feet of the land surface, if the activities meet all of the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws, and Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and if approval is granted by the local soil erosion and sedimentation control enforcement agency and the department of natural resources.~~
- ~~(i) Signs and outdoor advertising devices shall meet all of the following requirements:~~
 - ~~(i) They shall be related to permitted uses.~~
 - ~~(ii) They shall not be more than 1 square foot in area for residential uses and not more than 4 square feet in area for any other uses.~~
 - ~~(iii) They shall not be illuminated by a neon light or flashing device.~~
 - ~~(iv) They shall not be attached to a tree or shrub.~~
- ~~(j) Other uses for which an applicant is granted a permit by the zoning administrator pursuant to R 281.258, R 281.259, and R 281.261.~~

R 281.257 Natural vegetation strip Rescinded.

~~Rule 7. On that portion of the mainstream described in R 281.253(1)(a), a 75 foot minimum restrictive cutting belt shall be maintained on each side of the stream and on the portion of the mainstream and tributaries described in R 281.253(1)(b) to (p), a 50 foot minimum restrictive cutting belt shall be maintained on each side of the stream. Trees and shrubs may be pruned for a filtered view of the river upon approval of the zoning administrator or the area forester, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to both of the following provisions:~~

- ~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak, may be removed.~~
- ~~(b) Selective removal or trimming of trees for timber harvest, access, woodlot improvement, landscaping, or public utility lines to service private single family dwellings is permitted upon approval of the area forester or zoning administrator.~~

R 281.258 Special exception permits Rescinded.

~~Rule 8. (1) Special exception permits may be granted to allow a use in the natural river district which is not specifically permitted by R 281.256, if implementation of that use does not contravene the purposes of these rules as specified in R 281.252.~~

~~(2) Application for a special exception permit shall be made on a form provided by the zoning administrator.~~

~~(3) Upon reviewing an application for a special exception permit, the zoning review board, at any time before rendering a decision thereon, shall require the applicant to furnish all of the following information which the zoning review board deems necessary for determining the suitability of the particular site for the proposed use:~~

~~(a) A detailed description of the proposed activity or use.~~

~~(b) A surface view plan which gives accurate dimensions on either a scale drawing or a rough sketch and which shows all of the following:~~

~~(i) Elevations or contours of the ground, including existing earth fills.~~

~~(ii) Generalized vegetative cover.~~

~~(iii) Size, location, and spatial arrangement of all proposed and existing structures on the site.~~

~~(iv) Location and elevation of streets, access roads, and water supply and sanitary facilities.~~

~~(c) Photographs that show existing land uses and vegetation upstream and downstream from the proposed use.~~

~~(d) Valley cross sections that show the natural stream channel; streambanks; high water marks; flood marks, if known; and locations of proposed developments.~~

~~(e) All other information which is deemed relevant by the zoning administrator and which is necessary to carry out the intent and provisions of these rules.~~

~~(4) Before considering applications, the zoning review board shall give notice, by certified mail, to all of the following:~~

~~(a) Property owners whose property is within 500 feet of the proposed use as shown on the current tax assessment rolls.~~

~~(b) The appropriate local officials and department of natural resources personnel, including all of the following:~~

~~(i) The township supervisor.~~

~~(ii) The township building inspector.~~

~~(iii) The county health officer.~~

~~(iv) The local soil erosion and sedimentation control enforcement agency.~~

~~(v) County and township planning and zoning officials.~~

~~(vi) The soil conservation service.~~

~~(vii) The regional office and natural rivers section of the department of natural resources.~~

~~(viii) Boardman river advisory council.~~

~~(c) Any other interested parties who request that they be notified of such applications in the natural river district.~~

~~(5) In reviewing an application, the zoning review board shall consider all of the following:~~

~~(a) All relevant factors specified in these rules in light of the spirit and intent of the purposes specified in R 281.252.~~

~~(b) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact, together with a description of the title history, shall be included in the hearing evidence.~~

~~(c) Increases in flood levels and flood damage that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences, and other relevant factors within the terms of these rules.~~

- ~~(d) The cumulative effect upon the natural river district from the potential development of holdings in a legal position similar to the applicant's, if the applicant's request is approved by the zoning review board.~~
- ~~(e) Reasonable alternatives that are available to the applicant.~~
- ~~(6) In weighing the applicant's request, consideration of public health, safety, and welfare shall prevail unless private injury is proved by a preponderance of the evidence, to be so great as to override the public interest.~~
- ~~(7) A requested use shall not be granted if the zoning review board determines that the requested use poses a substantial hazard to life or to public or private property rights.~~
- ~~(8) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 30 days after its receipt, except that if public hearings are held or if additional information is required pursuant to subrule (3) of this rule, the zoning review board shall render a decision within 30 days following the hearings or upon receipt of the last requested item of information.~~
- ~~(9) The zoning review board shall attach such conditions to the granting of a special exception permit as are necessary to further the purposes of these rules.~~
- ~~(10) A special exception use shall adhere strictly to the terms of the special exception permit. A special exception permit that does not adhere strictly to the terms of the permit may be revoked by the zoning administrator.~~

R 281.259 Substandard lots of record Rescinded.

~~Rule 9. (1) The zoning administrator, in compliance with the terms of this subrule, shall grant a permit if, because of either of the following circumstances, a proposed structure cannot be erected on a lot of record or a lot described in a deed or land contract executed and delivered before the effective date of this rule:~~

- ~~(a) The lot is of insufficient width, depth, or area.~~
- ~~(b) Physical limitations exist on an existing lot or parcel.~~
- ~~(2) The zoning administrator shall ensure that all structures are located to best meet the objectives and purposes of these rules, the adopted Boardman river natural river plan, and Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws.~~
- ~~(3) The zoning administrator shall determine if a proposed structure on a lot of record or on a lot described in a deed or land contract executed and delivered before the effective date of these rules cannot conform to the standards listed in R 281.256(2)(a) and is, therefore, ineligible for consideration for use under R 281.256.~~
- ~~(4) A written application for a zoning permit on a lot of record shall be filed with the zoning administrator. The same information required in R 281.254(2) shall be submitted with an application.~~
- ~~(5) The zoning administrator shall grant a zoning permit for the use of a substandard lot of record only upon a showing of all of the following:~~
 - ~~(a) Granting the permit is not contrary to the public interest.~~
 - ~~(b) The permit does not allow the establishment of a use not otherwise permitted by these rules.~~
 - ~~(c) The permit applies only to the property under the control of the applicant.~~
 - ~~(d) The practical difficulties claimed by the applicant are not the result of actions taken by the applicant.~~
 - ~~(e) Granting the permit poses no substantial hazard to life or to public or private property rights, secures public safety, and does substantial justice.~~

~~(f) Granting the permit will not result in an increase of flood levels or risk of flood damage to other lands.~~

~~(g) The lot shall be developed pursuant to department of natural resources requirements under Act No. 245 of the Public Acts of 1929, as amended, being S323.1 et seq. of the Michigan Compiled Laws.~~

~~(h) Use of the lot will not significantly impair existing water quality, vegetative cover, fisheries, or wildlife habitat or increase the risk of erosion.~~

~~(i) The substandard lot size shall be the minimum dimensional reduction necessary to achieve a reasonable use of the land, after evaluation of alternative dimensional arrangements and permitted land uses available to the applicant, given the peculiar characteristics of the lot and circumstances surrounding the request. Alternatives shall be examined in light of the applicant's entire contiguous holdings and not merely a single lot or the portion within the natural river area. If dimensional requirements may be more nearly met through lot combination of contiguous holdings, the zoning administrator may so require.~~

~~(j) The permit provides that no fill shall be placed within the natural vegetation strip and that the approval of both the appropriate county or district health department and the soil erosion and sedimentation control enforcement agency shall be secured.~~

~~(k) The permit provides conditions necessary to insure proper development of the substandard lot pursuant to these rules.~~

~~(6) A special exception permit is required if a dimensional reduction of more than 50% of any of the standards listed in R 281.256(2)(a) is necessary to achieve reasonable use of the land. The zoning review board shall base its decision upon the standards set forth in R 281.258(5).~~

~~(7) The zoning administrator may confer with, and seek the advice of, the zoning review board, personnel of the Michigan department of natural resources, and other federal, state, and local officials to determine the possible effects of, and a suitable location for, a proposed structure.~~

~~(8) One copy of the plans, specifications, and the zoning permit, with conditions attached, shall be filed and retained by the zoning administrator, and another copy of each shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued a zoning permit.~~

~~(9) The applicant may appeal any decision of the zoning administrator or any conditions attached to a zoning permit to the zoning review board.~~

R 281.260 Nonconforming uses **Rescinded.**

~~Rule 10. (1) The lawful use of any land or structure that is in existence on the effective date of these rules may be continued even though the use does not conform to these rules.~~

~~(2) Routine or normal repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition are permitted. Remodeling of nonconforming structures within the confines of the existing foundation and elevations is permitted if the structure is neither enlarged nor extended nor its use changed.~~

~~(3) A special exception permit is required for the restoration of a nonconforming building or structure which is damaged or destroyed by more than 50% of its value due to flood, fire, or other means. In determining whether 50% of the value has been destroyed, the zoning review board shall use appraised replacement costs, as determined by a qualified individual appointed by the zoning review board, and shall compare the value of the part destroyed to the value of the total operating unit where there are several buildings or structures which are used together by the landowner as a single operating unit. A request for a permit to restore a nonconforming building~~

~~or structure damaged or destroyed by more than 50% of its value shall be approved if all of the following conditions exist:~~

- ~~(a) The land on which the building or structure is situated is not subject to flooding.~~
 - ~~(b) The continued use of a nonconforming building or structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the use of the building or structure is approved by the local soil erosion and sedimentation control enforcement agency.~~
 - ~~(c) The continued use conforms with local county health codes and is approved by the local county health department.~~
 - ~~(d) The continued use conforms with local building codes and is approved by the local building inspector.~~
 - ~~(e) Restoration of a damaged building or structure, if approved by the zoning review board, shall be started within 1 year from the time of damage.~~
 - ~~(4) A nonconforming use may be changed to a use of a like or similar character if the new use more closely conforms to the rules of the natural river district.~~
 - ~~(5) A nonconforming use of any land or structure shall not be enlarged or extended without a special exception permit granted upon consideration of the factors outlined in subrule (3) of this rule. An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation which provides overnight facilities and which does not exceed 12 units may be approved by the zoning review board if the owner submits to the zoning review board a detailed description of the proposed enlargement or extension, together with a site plan showing the location of all new structures or uses, and if the zoning review board determines that all of the following conditions exist:~~
 - ~~(a) The land on which the nonconforming use is situated is not subject to flooding.~~
 - ~~(b) The enlargement or extension of the nonconforming use does not lead to accelerated bank erosion or other material degradation of the river resource, and the enlargement or extension is approved by the local soil erosion and sedimentation control enforcement agency.~~
 - ~~(c) The enlargement or extended use conforms with local county health codes and is approved by the local county health department.~~
 - ~~(d) The enlarged or extended use conforms with local building codes and is approved by the local building inspector.~~
 - ~~(e) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.252.~~
 - ~~(6) The substitution of a nonconforming use with another nonconforming use may be made if a special exception permit is granted, based upon consideration of the factors outlined in subrule (5) of this rule, to ensure that the changed use conforms as closely as possible to the purposes of these rules as specified in R 281.252.~~
 - ~~(7) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.~~
 - ~~(8) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on the owner's property.~~
- ~~Certification of a prior nonconforming use shall be granted if the use meets the criteria of this rule and the common law criteria of nonconforming uses of this state.~~

R 281.261 Appeals; contested cases Rescinded.

~~Rule 11. An aggrieved party who contests a decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for~~

~~contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

R 281.262 Zoning administrator and zoning review board; appointment; and duties Rescinded.

~~Rule 12. The commission shall appoint a zoning administrator and a zoning review board to act as its agents to enforce these rules. The duties of the zoning review board and zoning administrator include, but are not limited to, all of the following:~~

- ~~(a) Receiving and processing applications for zoning permits, special exception permits, petitions for appeals, requests for changes, amendments, and supplements.~~
- ~~(b) Inspecting sites.~~
- ~~(c) Issuing or denying zoning permits as outlined in these rules.~~
- ~~(d) Assisting with other matters requiring a decision by the commission.~~

R 281.263 Violations Rescinded.

~~Rule 13. (1) An alleged violation shall be inspected by the staff of the department of natural resources. If a violation is found, the department shall order the applicant, in writing, to correct all conditions found to be in violation of these rules.~~

~~(2) The owner of a building, structure, or land which violates these rules is subject to the provisions of section 13 of Act No. 231 of the Public Acts of 1970, being S281.773 of the Michigan Compiled Laws.~~

R 281.264 Boundaries and permitted uses; changes, amendments, and supplements Rescinded.

~~Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.252.~~

~~(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws.~~

~~(3) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following:~~

- ~~(a) The county register of deeds.~~
- ~~(b) The zoning administrator of these rules.~~
- ~~(c) Local planning, zoning, and health officials.~~
- ~~(d) Township and county clerks.~~
- ~~(e) The local building inspector.~~
- ~~(f) Local soil erosion and sedimentation control enforcement agencies.~~
- ~~(g) The soil conservation service.~~
- ~~(h) Public utility companies which provide service to riverfront property owners affected by these rules.~~
- ~~(i) Boardman river advisory council.~~

~~(4) Upon approval by the director, a local zoning ordinance which meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.201 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence~~

over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Boardman river natural river district through court action or for any other reasons these rules shall apply.

R 281.271 Definitions Rescinded.

~~Rule 1. As used in these rules:~~

- ~~(a) "Applicant" means a person who requests on proper forms and pursuant to proper procedures, a zoning permit, special exception permit, or variance.~~
- ~~(b) "Appurtenance" means a structure that is incidental to a dwelling, including, but not limited to any of the following:~~
 - ~~(i) Garages.~~
 - ~~(ii) Private access roads.~~
 - ~~(iii) Pump houses.~~
 - ~~(iv) Wells.~~
 - ~~(v) Sanitary facilities.~~
 - ~~(vi) Electrical service lines.~~
- ~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~
- ~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~
- ~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~
- ~~(f) "Commission" means the natural resources commission.~~
- ~~(g) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~
- ~~(h) "Director" means the director of the department of natural resources.~~
- ~~(i) "Family" means either of the following:~~
 - ~~(i) One or more persons who are related by blood, legal adoption, or marriage and who occupy a single family dwelling unit with not more than 3 other persons.~~
 - ~~(ii) Not more than 5 unrelated persons who occupy a single family dwelling unit.~~
- ~~(j) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.~~
- ~~(k) "Floodplain" means land lying within an identified or documented 100-year floodplain line.~~
- ~~(l) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.~~
- ~~(m) "Front" means that side of a lot abutting the river's edge of the mainstream or tributary.~~
- ~~(n) "Land that is subject to flooding" means that area of land adjoining the designated portions of river and tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies which are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods,~~

such as United States geological survey flood prone area maps or the federal emergency management agency's special flood hazard boundary maps.

~~(o) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~

~~(p) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules, or a lot or parcel described by metes and bounds which has been recorded as required by law.~~

~~(q) "Natural river district" means the Pigeon river natural river district as described in R 281.273.~~

~~(r) "Ordinary high water mark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~

~~(s) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.~~

~~(t) "River's edge" means the ordinary high water mark as used in Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (r) of this rule.~~

~~(u) "Setback" means the horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~

~~(v) "Single family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~

~~(w) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~

~~(x) "Structure" means anything that is constructed, erected, or moved to or from any premises which is located above, on, or below the ground, including, but not limited to, roads, signs, billboards, and mobile homes.~~

~~Temporary recreational facilities, including, but not limited to, tents, camper trailers, and recreation vehicles are not considered structures when used less than 30 days per year and located landward of the natural vegetation strip.~~

~~(y) "Zoning administrator" means the administrator of these rules who is appointed by the natural resources commission.~~

~~(z) "Zoning permit" means a standard form which is issued by the zoning administrator upon a determination that the proposed construction and use of land and buildings and structures thereon is in compliance with all provisions of these rules.~~

~~(aa) "Zoning review board" means a group of not less than 3 nor more than 7 people which includes not less than 2 local representatives and 1 department of natural resources representative and which is appointed by the commission to act upon requests for special exceptions.~~

R 281.272 Purpose Rescinded.

~~Rule 2. The commission, on its own motion, in order to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Pigeon river, a designated natural river, promulgates these zoning rules whose purposes are as follows:~~

- ~~(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to unwise development patterns within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.~~
- ~~(b) To protect the free-flowing condition, fish and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Pigeon river and adjoining land.~~
- ~~(c) To prevent flood damage due to interference with natural floodplain characteristics by excluding developments which are vulnerable to flood damages and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~
- ~~(d) To provide for residential and other compatible, permitted uses that complement the natural characteristics of the natural river system.~~
- ~~(e) To protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~

R 281.273 Boundaries; rules of construction; display and filing of zoning map; effect of zoning rules **Rescinded.**

~~Rule 3. (1) The boundaries of the Pigeon river natural river district shall be as described in these rules and as depicted on the certified Pigeon river natural river zoning map. The Pigeon river natural river zoning district comprises an area which is described as follows:~~

~~(a) The mainstream from the confluence of the Pigeon river mainstream and the South branch, also known as Duck creek, in section 22, T31N, R2W, downstream to the Otsego/Cheboygan county line.~~

~~(b) All tributary streams within Otsego county which flow into the Pigeon river from their sources to their confluence with the Pigeon river.~~

~~Included as a tributary is that portion of the Pigeon river upstream of the confluence with the South branch, also known as Duck creek.~~

~~(c) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) and (b) of this subrule.~~

~~(2) Certified copies of the Pigeon river natural river zoning map shall be filed with the local tax assessing officers and with the state tax commission, and additional display copies shall be provided to local officials in the Pigeon river area, including all of the following:~~

~~(a) County register of deeds.~~

~~(b) Zoning administrator of these rules.~~

~~(c) Local planning, zoning, and health officials.~~

~~(d) Township and county clerks.~~

~~(e) Local building inspector.~~

~~(f) Local soil erosion and sedimentation control enforcement agencies.~~

~~(g) The soil conservation service.~~

~~(h) Soil conservation district.~~

~~(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within the natural river district, except that if these rules impose greater restrictions than those found on such easements, covenants, or deeds, the provisions of these rules shall prevail.~~

~~(4) These zoning rules do not permit actions prohibited by other statutes or ordinances which are applicable to the natural river district.~~

~~These include state and federal statutes, rules, and regulations dealing with dredge and fill activities, floodplains and wetlands protection, and soil erosion and sedimentation control and~~

construction in streams, and local zoning ordinances, health codes, and building codes, including requirements for permits and approvals.

~~(5) If uncertainty exists with respect to the boundaries indicated on the Pigeon river natural river zoning map, all of the following rules shall apply:~~

~~(a) Boundaries that are indicated as approximately following streets or highways shall be construed to be the center lines of the streets or highways.~~

~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following such lot lines.~~

~~(c) Boundaries that are indicated as approximately following city, township, or county boundary lines shall be construed as following such city, township, or county boundary lines.~~

~~(d) Boundaries that are indicated as approximately following railroad lines shall be construed to be midway between the main tracks.~~

~~(e) Boundaries that are indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official Pigeon river natural river zoning map. If no distance is given, the dimension shall be determined by the use of the scale shown on the official Pigeon river natural river zoning map.~~

~~(f) Boundaries that follow the shoreline of a river, stream, lake, or other body of water shall be construed to follow such shoreline and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries that are indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.~~

R 281.274 Zoning permits; applications; additional requirements ~~Rescinded~~.

~~Rule 4. (1) A person shall not commence excavation, erection, alteration, or repair on a building or structure or commence a land use until a zoning permit has been obtained from the zoning administrator. If the alteration or ordinary maintenance made on a dwelling does not change the character of the structure or land use and does not enlarge or extend the structure or use beyond the confines of the existing foundation or elevation, the owner of the structure or land is exempt from obtaining a zoning permit, but may be required to obtain a local building permit from the appropriate local building inspector.~~

~~(2) A zoning permit application shall be filed with the zoning administrator. This application is available from the zoning administrator. All of the following information shall be submitted on or with the application:~~

~~(a) Two copies of a site plan which give accurate dimensions on either a scale drawing or a rough sketch and which contain all of the following information:~~

~~(i) The location on the lot of all existing and proposed structures.~~

~~(ii) The location and general type of trees, shrubs, and other similar vegetation.~~

~~(iii) The lines and dimensions of the lot to be used.~~

~~(b) The intended use of proposed structures.~~

~~(c) Evidence of ownership of all property affected by the coverage of the permit.~~

~~(d) Evidence that all required federal, state, county, and township licenses or permits have been acquired, or that applications have been filed for the licenses or permits.~~

~~(e) Other information, as required by the zoning administrator, which is necessary to carry out the intent and provisions of these rules. The zoning administrator shall notify the applicant of the need for additional information within 15 days of the receipt of an application.~~

~~(3) One copy of both site plans and specifications shall be filed and retained by the zoning administrator, and the other copy shall be delivered to the applicant when the zoning~~

administrator has approved the application, completed the site inspection, and issued the zoning permit.

To ensure that new land uses in the natural river district are in conformance with these rules, before beginning construction or commencing a land use, the applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

Failure to obtain and display a permit is a violation of these rules.

~~(4) Within 30 days of receipt of a completed application, the zoning administrator shall render a decision to issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(5) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of time not to exceed 6 months. Any subsequent extensions shall have the written approval of the zoning review board.~~

R 281.275 Subdivision of land; plats with preliminary approval Rescinded.

~~Rule 5. (1) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrule (2) of this rule.~~

~~(2) Proposed lots which have preliminary plat approval pursuant to Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.279.~~

R 281.276 Permitted uses Rescinded.

~~Rule 6. (1) The following uses are permitted by the owner upon the owner's property within the natural river district, subject to the limitations and requirements outlined in these zoning rules, local ordinances, and other applicable statutes:~~

~~(a) Private camping and other recreational activities which do not require the installation of permanent structures and which are outside of the natural vegetation strip.~~

~~(b) The operation of watercraft, subject to the limitations of local ordinances established under the authority of Act No. 303 of the Public Acts of 1967, as amended, being S281.1001 et seq. of the Michigan Compiled Laws.~~

~~(c) Fishing and hunting in compliance with existing laws and rules.~~

~~(d) Reforestation and other accepted forest management practices, subject to the limitations outlined in R 281.277.~~

~~(e) Acceptable agricultural practices, if the practices meet the requirements of these rules, unless the bureau of environmental protection of the department of natural resources determines that such activities contribute to stream degradation.~~

~~(f) The operation of licensed motor vehicles on dedicated public roads or access roads to private single family dwellings.~~

~~(g) Off road operation of emergency and public utility maintenance vehicles. Operation of other motorized vehicles off road is prohibited within the natural vegetation strip.~~

~~(h) Private footpaths that are constructed by the landowner of natural materials to facilitate permitted uses.~~

~~(2) The following uses are permitted upon prior approval of the zoning administrator:~~

- ~~(a) One single family dwelling and appurtenances, subject to the following limitations:~~
 - ~~(i) On the designated portion of the Pigeon river mainstream, the minimum lot width shall be 200 front feet wide, and new buildings and appurtenances shall be required to be set back a minimum of 200 feet from the water's edge.~~
 - ~~(ii) On all other streams within the natural river district, the minimum lot width shall be 150 front feet wide, and new buildings and appurtenances shall be required to be set back a minimum of 150 feet from the water's edge.~~
 - ~~(iii) New buildings and appurtenances shall be set back not less than 50 feet from the top of a bluff.~~
 - ~~(iv) Setback shall be not less than 15 feet from side lot lines and not less than 25 feet from the right of way of a public road.~~
 - ~~(v) New structures shall not be located on land that is subject to flooding.~~
- ~~(b) Plats, if the minimum setbacks and lot width requirements specified in subdivision (a) of this subrule are met.~~
- ~~(c) Private boat docks, if necessary to provide safe and ecologically sound access for the riparian landowner, if designed, constructed, and maintained to blend with the natural surroundings, and if a permit is issued under the authority of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws. The use of natural, indigenous materials is encouraged.~~
- ~~(d) Mining and extracting industries which are located more than 300 feet from the ordinary high water mark, if they are constructed and operated pursuant to applicable local ordinances and state laws and rules.~~
- ~~(e) Utility lines to service private single family dwellings.~~
- ~~(f) Utility transmission lines on lands or interests in real property which are continuously owned by a utility from January 1, 1971, subject to review and approval by the commission.~~
- ~~(g) Disposal fields and septic tanks which are located not less than 150 feet from the ordinary high water mark and which are in conformance with local county health codes and these rules. In addition, a septic tank or absorption field shall not be closer than 50 feet to any surface or subsurface drainage system emptying into the Pigeon river or its designated tributaries. The bottom of an earth privy shall not be less than 6 feet above the known high groundwater table.~~
- ~~(h) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 6 feet of the land surface, or on land subject to flooding, if the activities meet all of the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws, Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, Act No. 203 of the Public Acts of 1979, being S281.701 et seq. of the Michigan Compiled Laws, and Act No. 245 of the Public Acts of 1929, as amended, being S323.1 et seq. of the Michigan Compiled Laws, and if approval is granted by the local soil erosion and sedimentation control enforcement agency and the department of natural resources.~~
- ~~(i) Signs and outdoor advertising devices shall meet all of the following requirements:~~
 - ~~(i) They shall be related to permitted uses.~~
 - ~~(ii) They shall not be larger than 1 square foot in area and not posted more than 1 per 100 feet or 1 sign at the upstream and downstream corner of the lot; however, 1 temporary real estate "for sale" sign which does not exceed 4 square feet in area shall be allowed on a parcel of land outside of the natural vegetation strip.~~
 - ~~(iii) They shall be stationary and with no moving parts.~~
 - ~~(iv) They shall not be illuminated by a neon light or flashing device.~~
 - ~~(v) They shall not be attached to a tree or shrub.~~

~~(j) Other uses for which an applicant is granted a permit by the zoning administrator pursuant to R 281.278, R 281.279, and R 281.280.~~

R 281.277 Natural vegetation strip Rescinded.

~~Rule 7. For the length of the river, a 100 foot deep minimum restrictive cutting belt shall be maintained on each side of the mainstream of the Pigeon river. Along all other streams in the natural river district, a 75 foot deep minimum restrictive cutting belt shall be maintained. Trees and shrubs may be pruned for a filtered view of the river, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to both of the following provisions:~~

~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak, may be removed.~~

~~(b) Selected removal or trimming of trees for timber harvest, access or woodlot improvement, landscaping, or public utility lines to service private single family dwellings is permitted upon approval of the area forester or zoning administrator.~~

R 281.278 Special exception permits Rescinded.

~~Rule 8. (1) Special exception permits may be granted to allow a use in the natural river district which is not specifically permitted by R 281.276 if implementation of that use does not contravene the purposes of these rules as specified in R 281.272.~~

~~(2) Application for a special exception permit shall be made on a form provided by the zoning administrator.~~

~~(3) Upon reviewing an application for a special exception permit, the zoning review board, at any time before rendering a decision thereon, shall require the applicant to furnish such of the following information which the zoning review board deems necessary for determining the suitability of the particular site for the proposed use:~~

~~(a) A detailed description of the proposed activity or use.~~

~~(b) A surface view plan which gives accurate dimensions on either a scale drawing or a rough sketch and which shows all of the following:~~

~~(i) Elevations or contours of the ground, including existing earth fills.~~

~~(ii) Generalized vegetative cover.~~

~~(iii) The size, location, and spatial arrangement of all proposed and existing structures on the site.~~

~~(iv) The location and elevations of streets, access roads, and water supply and sanitary facilities.~~

~~(c) Photographs that show existing land uses and vegetation upstream and downstream from the proposed use.~~

~~(d) Valley cross sections that show the natural stream channel, streambanks, high water marks, flood marks, if known, and locations of proposed developments.~~

~~(e) All other information which is deemed relevant by the zoning administrator and which is necessary to carry out the intent and provisions of these rules. The zoning administrator shall notify the applicant of the need for additional information within 15 days of the receipt of an application.~~

~~(4) Before considering applications, the zoning review board shall give notice to all of the following:~~

~~(a) Property owners whose property is within 500 feet of the proposed use as shown on the current tax assessment rolls.~~

~~(b) The appropriate local officials and department of natural resources personnel, including all of the following:~~

- ~~(i) The township supervisor.~~
- ~~(ii) The township building inspector.~~
- ~~(iii) The county health officer.~~
- ~~(iv) The local soil erosion and sedimentation control enforcement agency.~~
- ~~(v) County and township planning and zoning officials.~~
- ~~(vi) The soil conservation service.~~
- ~~(vii) The regional office and natural rivers section of the department of natural resources.~~
- ~~(viii) Soil conservation district.~~

~~(c) Any other interested parties who request that they be notified of such applications in the natural river district.~~

~~(5) In reviewing an application, the zoning review board shall consider all of the following:~~

~~(a) All relevant factors specified in these rules in light of the spirit and intent of the purposes specified in R 281.272.~~

~~(b) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact, together with a description of the title history, shall be included in the hearing evidence.~~

~~(c) Increases in flood levels and flood damages that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences, and other relevant factors within the terms of these rules.~~

~~(d) The cumulative effect upon the natural river district from the potential development of holdings in a legal position similar to the applicant's, if the applicant's request is approved by the zoning review board.~~

~~(e) Reasonable alternatives that are available to the applicant.~~

~~(6) In weighing the applicant's request, consideration of public health, safety, and welfare shall prevail, unless private injury is proven by a preponderance of the evidence to be so great as to override the public interest.~~

~~(7) A requested use shall not be granted if the zoning review board determines that the requested use poses a substantial hazard to life or to public or private property rights.~~

~~(8) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 30 days after its receipt, except that if public hearings are held or if additional information is required pursuant to subrule (3) of this rule, the zoning review board shall render a decision within 30 days following the hearings or upon receipt of the last requested item of information.~~

~~(9) The zoning review board shall attach such conditions to the granting of a special exception permit as are necessary to further the purposes of these rules.~~

~~(10) A special exception use shall adhere strictly to the terms of the special exception permit. A special exception use that does not adhere strictly to the terms of the permit may be revoked by the zoning administrator.~~

R 281.279 Substandard lots of record **Rescinded.**

~~Rule 9. (1) The zoning administrator, in compliance with the terms of this subrule, shall grant a permit if, because of either of the following circumstances, a proposed structure cannot be erected on a lot of record or a lot described in a deed or land contract executed and delivered before the effective date of this rule:~~

- ~~(a) The lot is of insufficient width, depth, or area.~~
- ~~(b) Physical limitations exist on an existing lot or parcel.~~
- ~~(2) The zoning administrator shall ensure that all structures are located to best meet the objectives and purposes of these rules, the adopted Pigeon river natural river plan, and Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws.~~
- ~~(3) The zoning administrator shall determine if a proposed structure on a lot of record or on a lot described in a deed or land contract executed and delivered before the effective date of these rules cannot conform to the standards listed in R 281.276(2)(a) and is, therefore, ineligible for consideration for use under R 281.276.~~
- ~~(4) A written application for a zoning permit on a lot of record shall be filed with the zoning administrator. The same information required in R 281.274(2) shall be submitted with an application.~~
- ~~(5) The zoning administrator shall grant a zoning permit for the use of a substandard lot of record only upon a showing of all of the following:~~
 - ~~(a) Granting the permit is not contrary to the public interest.~~
 - ~~(b) The permit does not allow the establishment of a use not otherwise permitted by these rules.~~
 - ~~(c) The permit applies only to the property under the control of the applicant.~~
 - ~~(d) The practical difficulties claimed by the applicant are not the result of actions taken by the applicant.~~
 - ~~(e) Granting the permit poses no substantial hazard to life or to public or private property rights, secures public safety, and does substantial justice.~~
 - ~~(f) Granting the permit will not result in an increase of flood levels or risk of flood damage to other lands.~~
 - ~~(g) The lot shall be developed pursuant to department of natural resources requirements under Act No. 245 of the Public Acts of 1929, as amended, being S323.1 et seq. of the Michigan Compiled Laws.~~
 - ~~(h) Use of the lot will not significantly impair existing water quality, vegetative cover, fisheries, or wildlife habitat or increase the risk of erosion.~~
 - ~~(i) The substandard lot size shall be the minimum dimensional reduction necessary to achieve a reasonable use of the land, after evaluation of alternative dimensional arrangements and permitted land uses available to the applicant, given the peculiar characteristics of the lot and circumstances surrounding the request. Alternatives shall be examined in light of the applicant's entire contiguous holdings and not merely a single lot or the portion within the natural river area. If dimensional requirements may be more nearly met through lot combination of contiguous holdings, the zoning administrator may so require.~~
 - ~~(j) The permit provides that no fill shall be placed within the natural vegetation strip and that the approval of both the appropriate county or district health department and the soil erosion and sedimentation control enforcement agency shall be secured.~~
 - ~~(k) The permit provides conditions necessary to ensure the proper development of the substandard lot pursuant to these rules.~~
- ~~(6) A special exception permit is required if a dimensional reduction of more than 50% of any of the standards listed in R 281.276(2)(a) is necessary to achieve a reasonable use of the land. The zoning review board shall base its decision upon the standards set forth in R 281.278(5).~~
- ~~(7) The zoning administrator may confer with, and seek the advice of, the zoning review board, personnel of the Michigan department of natural resources, and other federal, state, and local officials to determine the possible effects of, and a suitable location for, a proposed structure.~~

~~(8) One copy of the plans, specifications, and the zoning permit, with conditions attached, shall be filed and retained by the zoning administrator, and another copy of each shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued a zoning permit.~~

~~(9) The applicant may appeal any decision of the zoning administrator or any conditions attached to a zoning permit under authority of the provisions of this rule to the zoning review board.~~

R 281.280 Nonconforming uses Rescinded.

~~Rule 10. (1) The lawful use of any land or structure which is in existence on the effective date of these rules may be continued although the use does not conform to these rules.~~

~~(2) Routine or normal repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition are permitted. Remodeling of nonconforming structures within the confines of the existing foundation and elevations is permitted if the structure is neither enlarged nor extended and its use is not changed.~~

~~(3) A special exception permit is required for the restoration of a nonconforming building or structure which is damaged or destroyed by more than 50% of its value due to flood, fire, or other means. In determining whether 50% of the value has been destroyed, the zoning review board shall use appraised replacement costs, as determined by a qualified individual appointed by the zoning review board, and shall compare the value of the part destroyed to the value of the total operating unit where there are several buildings or structures which are used together by the landowner as a single operating unit. A request for a permit to restore a nonconforming building or structure damaged or destroyed by more than 50% of its value shall be approved if all of the following conditions exist:~~

~~(a) The land on which the building or structure is situated is not subject to flooding.~~

~~(b) The continued use of a nonconforming building or structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the use of the building or structure is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(c) The continued use conforms with local county health codes and is approved by the local county health department.~~

~~(d) The continued use conforms with local building codes and is approved by the local building inspector.~~

~~(e) Restoration of a damaged building or structure, if approved by the zoning review board, shall be started within 1 year after the time of damage.~~

~~(4) A nonconforming use may be changed to a use of a like or similar character if the new use more closely conforms to the rules of the natural river district.~~

~~(5) A nonconforming use of any land or structure shall not be enlarged or extended without a special exception permit granted upon consideration of the factors outlined in subrule (3) of this rule. An enlargement or extension of a nonconforming use of up to 50% of the floor area of a residential structure may be approved by the zoning review board if the owner submits to the zoning review board a detailed description of the proposed enlargement or extension, together with a site plan showing the location of all new structures or uses, and if the zoning review board determines that all of the following conditions exist:~~

~~(a) The land on which the nonconforming use is situated is not subject to flooding.~~

~~(b) The enlargement or extension of the nonconforming use does not lead to accelerated bank erosion or other material degradation of the river resource, and the enlargement or extension is approved by the local soil erosion and sedimentation control enforcement agency.~~

- ~~(c) The enlargement or extended use conforms with local county health codes and is approved by the local county health department.~~
 - ~~(d) The enlarged or extended use conforms with local building codes and is approved by the local building inspector.~~
 - ~~(e) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.272.~~
 - ~~(6) The substitution of a nonconforming use with another nonconforming use may be made if a special exception permit is granted, based upon consideration of the factors outlined in subrule (5) of this rule, to ensure that the changed use conforms as closely as possible to the purposes of these rules as specified in R 281.272.~~
 - ~~(7) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.~~
 - ~~(8) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on the owner's property.~~
- ~~Certification of a prior nonconforming use shall be granted if the use meets the criteria of this rule and the common law criteria of nonconforming uses of this state.~~

R 281.281 Appeals; contested cases Rescinded.

~~Rule 11. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

R 281.282 Zoning administrator and zoning review board; appointment; duties Rescinded.

- ~~Rule 12. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.~~
- ~~(2) The duties of the zoning administrator include, but are not limited to, all of the following:~~
 - ~~(a) Receiving and processing applications for zoning permits, special exception permits, petitions for appeals, and requests for changes, amendments, and supplements.~~
 - ~~(b) Inspecting sites.~~
 - ~~(c) Issuing or denying zoning permits as outlined in these rules.~~
 - ~~(d) Assisting with other matters requiring a decision by the commission.~~
 - ~~(3) It shall be the duty of the zoning review board to act upon requests for special exception permits. In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following:~~
 - ~~(a) Affected townships and counties.~~
 - ~~(b) Soil conservation districts.~~
 - ~~(c) Property owners' associations.~~
 - ~~(d) Other interested local organizations and citizens.~~
 - ~~(4) The commission shall request each affected township to appoint 1 person to represent its interests on matters within its jurisdiction.~~
- ~~The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official working in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The commission shall request each affected soil conservation district to appoint 1 person to represent its interests on matters within its jurisdiction. Representatives appointed pursuant to this rule~~

~~shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.~~

R 281.283 Violations Rescinded.

~~Rule 13. (1) An alleged violation shall be inspected by the staff of the department and, if it is determined that a violation exists, the department shall order the applicant, in writing, to correct all conditions found to be in violation of these rules.~~

~~(2) The owner of a building or structure or land which violates these rules is subject to the provisions of section 13 of Act No. 231 of the Public Acts of 1970, being S281.773 of the Michigan Compiled Laws.~~

R 281.284 Boundaries and permitted uses; changes, amendments, and supplements Rescinded.

~~Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.272.~~

~~(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws.~~

~~(3) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following:~~

~~(a) The county register of deeds.~~

~~(b) The zoning administrator of these rules.~~

~~(c) Local planning, zoning, and health officials.~~

~~(d) Township and county clerks.~~

~~(e) The local building inspector.~~

~~(f) Local soil erosion and sedimentation control enforcement agencies.~~

~~(g) The soil conservation service.~~

~~(h) Public utility companies which provide service to riverfront property owners affected by these rules.~~

~~(i) Soil conservation district.~~

~~(4) Upon approval by the director, a local zoning ordinance which meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Pigeon river natural river district through court action or for any other reason, these rules shall apply.~~

R 281.321 Definitions Rescinded.

~~Rule 1. As used in these rules:~~

~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.~~

- ~~(b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:~~
 - ~~(i) Garages.~~
 - ~~(ii) Residential storage sheds or barns.~~
 - ~~(iii) Pump houses.~~
 - ~~(iv) Wells.~~
 - ~~(v) Private access roads.~~
 - ~~(vi) Sanitary facilities.~~
 - ~~(vii) Electrical service lines.~~
- ~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~
- ~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~
- ~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~
- ~~(f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.~~
- ~~(g) "Commission" means the natural resources commission.~~
- ~~(h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~
- ~~(i) "Director" means the director of the department of natural resources.~~
- ~~(j) "Family" means either of the following:~~
 - ~~(i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than 2 additional unrelated persons, and who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.~~
 - ~~(ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing nontransient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.~~
- ~~(k) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view.~~
~~"Filtered view of the river" means no clear cutting.~~
- ~~(l) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (q) of this rule.~~
- ~~(m) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.~~
- ~~(n) "Front" means that segment of a lot or parcel abutting the river's edge of the mainstream or tributary.~~
- ~~(o) "Front yard" means setback as provided for in R 281.327(2)(a)(iv).~~

- ~~(p) "Home occupation" means a gainful occupation traditionally and historically carried on in the home as a use clearly incidental and secondary to the use of the home as a dwelling place.~~
- ~~(q) "Land that is subject to flooding" means that area of land adjoining the designated portions of river and tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies which are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.~~
- ~~(r) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~
- ~~(s) "Lot area" means the area inside the lot lines.~~
- ~~(t) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or designated tributaries.~~
- ~~(u) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds.~~
- ~~(v) "Natural river district" means the Au Sable river natural river district as described in the provisions of R 281.325.~~
- ~~(w) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~
- ~~(x) "Rear yard" means that yard opposite the front yard and includes the required minimum horizontal distance between any portion of a principal or accessory building and the rear lot line.~~
- ~~(y) "Reforestation" means the renewal of vegetative cover by seeding, planting or transplanting.~~
- ~~(z) "River's edge" means the ordinary high watermark as used in the provisions of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (w) of this rule.~~
- ~~(aa) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~
- ~~(bb) "Side yard" means the required minimum horizontal distance between any portion of a principal or accessory building and the side lot line.~~
- ~~(cc) "Single family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~
- ~~(dd) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~
- ~~(ee) "Structure" means anything that is constructed, erected, or moved to or from any premises which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures when used less than 30 days per year and located landward of the natural vegetation strip.~~

~~(ff) "Zoning administrator" means the administrator of these rules who is appointed by the natural resources commission.~~

~~(gg) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon is in compliance with all provisions of these rules.~~

~~(hh) "Zoning review board" means a group of not less than 3, nor more than 7, people which includes not less than 2 local representatives and 1 department of natural resources representative and which is appointed by the commission to act upon requests as provided for by these rules.~~

R 281.322 Purpose; intent; scope Rescinded.

~~Rule 2. (1) The commission, on its own motion, in order to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Au Sable river, a designated natural river, promulgates these zoning rules for the following purposes:~~

~~(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.~~

~~(b) To protect the free flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Au Sable river and adjoining land.~~

~~(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~

~~(d) To provide for uses that complement the natural characteristics of the natural river system.~~

~~(e) To protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~

~~(f) To achieve the goals and objectives of the Au Sable river natural river plan.~~

~~(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.~~

~~(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where provisions of law are less restrictive than the provisions of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder, the provisions of Act No. 231 of the Public Acts of 1970, and the rules promulgated thereunder shall apply.~~

R 281.323 Construction of language; severability Rescinded.

~~Rule 3. (1) All of the following rules of construction apply to the text of these rules:~~

~~(a) The particular shall control over the general.~~

~~(b) In the case of any difference of meaning or implication between the text of these rules and any caption or illustration, the text shall~~

control.

~~(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.~~

~~(d) Words used in the present tense shall include the future. Words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.~~

~~(e) A "building" or "structure" includes any part thereof.~~

~~(f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."~~

~~(g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.~~

~~(h) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:~~

~~(i) "And" indicates that all of the connected items, conditions, or provisions shall apply.~~

~~(ii) "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.~~

~~(iii) "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.~~

~~(i) Terms not defined in these rules shall have the meanings customarily assigned to them.~~

~~(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.~~

~~R 281.281 Lot size and area; subdivision of land; home occupations; natural vegetation strip; signs; docks~~ **Rescinded.**

~~Rule 4. (1) Unless otherwise provided for within these rules, any lot or parcel of property created after the effective date of these rules, or amendments thereto, shall have a minimum area of 50,000 square feet and a minimum average width of 200 feet throughout the length of the lot or parcel on the Au Sable river main stream, south branch and north branch, and a minimum average width of 150 feet on all other designated tributaries. The average lot width shall be based on the average of the combined widths of the front and rear lot lines.~~

~~(2) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.~~

~~(3) Proposed lots which have preliminary plat approval pursuant to the provisions of Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.329.~~

~~(4) Lots of record which are created before the effective date of these rules, or amendments thereto, and which do not possess sufficient land area or lot width may be used for the purposes described within these rules, subject to the requirements provided for in R 281.329.~~

~~(5) Home occupations shall conform to all of the following requirements:~~

~~(a) Only members of the immediate family who reside on the premises, plus 1 additional person, may engage in home occupations.~~

~~(b) The use of the dwelling unit, or related structure, for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation shall not occupy more than 20% of the aboveground floor area of the dwelling unit or 300 square feet, whichever is greater. This requirement shall apply whether the home occupation is contained wholly within the dwelling unit or utilizes a garage.~~

~~(c) There shall be no change in the outside appearance of the dwelling or any other visible evidence of the conduct of the home occupation in the dwelling; however, there may be 1 sign which is not more than 2 square feet in area, is nonilluminated, and is mounted against the wall of the dwelling. The home occupation shall be conducted and operated entirely within the confines of the dwelling.~~

~~(d) The home occupation shall be operated in its entirety within the principal dwelling unit and attached or detached garage.~~

~~(e) Only products produced on the premises by a home occupation may be sold. Only services provided on the premises by a home occupation may be sold. This does not preclude the storage of products not produced on the premises if such storage does not exceed the floor area requirement~~

~~specified in subdivision (b) of this subrule or contain explosive or highly flammable material.~~

~~(f) Traffic shall not be generated by a home occupation in a volume that is more than 20% of the average volume normally expected for the type of dwelling unit to which the home occupation is associated. Average volumes shall be based on current trip generation guidelines as issued in the 1987 edition of the institute of transportation engineers' publication entitled "Trip Generation, fourth edition," which are herein adopted by reference.~~

~~The guidelines are available for review or purchase from the Land and Water Management Division of the Michigan Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909, or may be purchased from the Institute of Transportation Engineers, 525 School Street SW, Suite 410, Washington, DC 20024-2729, at a cost of \$125.00.~~

~~(g) Equipment or a process shall not be used in a home occupation if it creates noise, vibration, glare, fumes, odors, or electrical interference off the premises which is detectable to the normal senses and the occupation is conducted in a single-family dwelling unit or its associated garage or outside the dwelling unit if the occupation is conducted in other than a single-family dwelling unit or its associated garage. Equipment or a process shall not be used if it creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in line voltage off the premises.~~

~~(6) Within the natural river district, a 75-foot minimum restrictive cutting belt shall be maintained on each side of the main stream, south branch and north branch of the Au Sable river, and a 50-foot minimum restrictive cutting belt shall be maintained on each side of all other designated tributaries. Trees and shrubs may be pruned for a filtered view of the river, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to all of the following provisions:~~

~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy and poison sumac may be removed (b) The selected removal or trimming of trees for timber harvest, access or woodlot improvements, landscaping, or public utility lines to service private single-family dwellings and other permitted uses is permitted upon approval of the zoning administrator.~~

~~(c) Camping is not permitted in the natural vegetation strip.~~

~~(7) In addition to the signage standards specified in R 281.327, all signs shall be in compliance with all of the following provisions:~~

~~(a) Be stationary with no moving parts.~~

- ~~(b) Be constructed of natural materials and earth tone colors to blend with the surrounding environment.~~
- ~~(c) Not be attached to trees or shrubs unless the sign is located outside the natural vegetation strip.~~
- ~~(d) Not be illuminated unless it can be demonstrated that illumination is necessary for the purposes of traffic safety or other such purpose, in which case the zoning administrator may approve an illuminated sign.~~
- ~~(8) Private boat docks shall be in conformance with all of the following requirements:~~
 - ~~(a) Docks shall not be more than 4 feet in width and 12 feet in length, with not more than 4 feet of the dock extending over the edge of the river.~~
 - ~~(b) Docks shall be designed, constructed, and maintained to blend with natural surroundings. The use of natural, native materials is encouraged.~~
 - ~~(c) Unless provided for within these rules, only 1 dock shall be constructed per lot.~~
 - ~~(d) Where regulations permit multiple docks, such docks may be placed side by side.~~

R 281.325 Boundaries; interpretation of boundaries; filing of zoning map ~~Rescinded.~~

- ~~Rule 5. (1) The boundaries of the Au Sable river natural river district shall be as described in these rules and as depicted on the certified Au Sable river natural river zoning map. The Au Sable river natural river zoning district comprises an area which is described as follows:~~
- ~~(a) The Au Sable river from the confluence of Kolka creek and Bradford creek in section 23, T28N, R4W in Crawford county to Loud dam in section 21, T24N, R6E in Ioseco county.~~
 - ~~(b) Kolka creek from the outfall of Lynn lake in section 26, T29N, R4W in Otsego county to its confluence with Bradford creek in section 23, T28N, R4W in Crawford county.~~
 - ~~(c) Bradford creek from the outfall of Big Bradford lake in section 6, T28N, R3W in Crawford county to its confluence with Kolka creek in section 23, T28N, R4W.~~
 - ~~(d) East branch, Au Sable river, from the outfall of Barnes lake in section 7, T28N, R2W in Crawford county to its confluence with the Au Sable river in section 8, T26N, R3W.~~
 - ~~(e) South branch, Au Sable river, from highway M 76 in section 5, T23N, R1W in Roscommon county to its confluence with the Au Sable river in section 8, T26N, R1W in Crawford county.~~
 - ~~(f) Douglas creek from its headwaters in section 16, T25W, R1W in Crawford county to its confluence with the south branch of the Au Sable river in section 18, T25N, R1W.~~
 - ~~(g) Thayer creek from its headwaters in section 16, T25N, R2W in Crawford county to its confluence with the south branch of the Au Sable river in section 7, T25N, R1W.~~
 - ~~(h) Hudson creek from its headwaters in section 26, T24N, R2W in Roscommon county to its confluence with the south branch of the Au Sable river in section 12, T24N, R2W.~~
 - ~~(i) Robinson creek from its headwaters in section 7, T23N, R2W in Roscommon county to its confluence with the south branch of the Au Sable river in section 5, T24N, R2W.~~
 - ~~(j) Beaver creek from its headwaters in section 25, T25N, R4W in Crawford county to its confluence with the south branch of the Au Sable river in section 31, T25N, R2W.~~
 - ~~(k) East creek from its headwaters in section 13, T24N, R1W in Roscommon county to its confluence with the south branch of the Au Sable river in section 16, T24N, R1W.~~
 - ~~(l) South creek from its headwaters in section 35, T24N, R1W in Roscommon county to its confluence with the south branch of the Au Sable river in section 28, T24N, R1W.~~
 - ~~(m) North branch, Au Sable river, from Ski Slope drive in section 34, T30N, R3W in Otsego county to its confluence with the Au Sable river in section 1, T26N, R1W in Crawford county.~~
 - ~~(n) Turtle creek from the outfall of Turtle lake in section 33, T30N, R2W in Otsego county to its confluence with the north branch of the Au Sable river in section 20, T29N, R2W.~~

- ~~(o) Chub creek from the outfall of Bridge lake in section 23, T29N, R3W in Otsego county to its confluence with the north branch of the Au Sable river in section 20, T29N, R2W.~~
- ~~(p) Big creek from the confluence of the east branch of Big creek and the west branch of Big creek in section 23, T27N, R1W in Crawford county to its confluence with the north branch of the Au Sable river in section 27, T27N, R1W.~~
- ~~(q) West branch, Big creek, from the outfall of Caulkins lake in section 14, T29N, R1W in Otsego county to its confluence with the east branch of Big creek in section 23, T27N, R1W in Crawford county.~~
- ~~(r) Middle branch, Big creek, from the outfall of West Twin lake in section 32, T29N, R1E in Montmorency county to its confluence with the east branch of Big creek in section 13, T27N, R1W in Crawford county.~~
- ~~(s) East branch, Big creek, from the north section line of section 27, T28N, R1E in Oscoda county to its confluence with the west branch of Big creek in section 23, T27N, R1W, in Crawford county.~~
- ~~(t) Big creek from the confluence of the east branch of Big creek and the west branch of Big creek in section 24, T26N, R1E in Oscoda county to its confluence with the Au Sable river in section 1, T26N, R1E.~~
- ~~(u) West branch, Big creek, from its headwaters in section 1, T24N, R1E in Ogemaw county to its confluence with the east branch of Big creek in section 24, T26N, R1E in Oscoda county.~~
- ~~(v) East branch, Big creek, from its headwaters in section 10, T25N, R2E in Oscoda county to its confluence with the west branch of Big creek in section 24, T26N, R1E.~~
- ~~(w) Sohn creek from its headwaters in section 20, T27N, R1E in Oscoda county to its confluence with the Au Sable river in section 4, T26N, R1E.~~
- ~~(x) Beaver creek from the east section line of section 26, T17N, R1E in Oscoda county to its confluence with the Au Sable river in section 3, T26N, R1E.~~
- ~~(y) Wolf creek from its headwaters in section 19, T26N, R3E in Oscoda county to its confluence with the Au Sable river in section 7, T26N, R3E.~~
- ~~(z) Loud creek from its headwaters in section 29, T26N, R3E in Oscoda county to its confluence with the Au Sable river in section 17, T26N, R3E.~~
- ~~(aa) Perry creek from the outfall of Perry lake in section 9, T27N, R3E in Oscoda county to its confluence with the Au Sable river in section 9, T26N, R3E.~~
- ~~(bb) Comins creek from its headwaters in section 27, T27N, R3E in Oscoda county to its confluence with the Au Sable river in section 11, T26N, R3E.~~
- ~~(cc) Glennie creek from its headwaters in section 30, T27N, R4E in Oscoda county to its confluence with the Au Sable river in section 7, T26N, R4E.~~
- ~~(dd) Nine Mile creek from its headwaters in section 28, T26N, R4E in Oscoda county to its confluence with the Au Sable river in section 23, T26N, R4E.~~
- ~~(ee) Blockhouse creek from its headwaters in section 28, T27N, R4E in Oscoda county to its confluence with the Au Sable river in section 20, T26N, R5E, in Alcona county.~~
- ~~(ff) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (ee) of this subrule.~~
- ~~(2) Where uncertainty exists with respect to the boundaries of the district as shown on the zoning map, all of the following rules shall apply:~~
 - ~~(a) Boundaries indicated as approximately following the centerline of streets or highways shall be construed to follow such centerline.~~
 - ~~(b) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.~~

- ~~(c) Boundaries indicated as approximately following city, village, township, or county boundary lines shall be construed as following such city, village, township, or county boundary lines.~~
- ~~(d) Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.~~
- ~~(e) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerline.~~
- ~~(f) Boundaries indicated as parallel to or extensions of features indicated in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.~~
- ~~(g) Where physical or natural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, the zoning review board shall interpret the district boundaries.~~
- ~~(h) Insofar as a portion of all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public right-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.~~
- ~~(3) Certified copies of the Au Sable river natural river zoning map shall be filed with all of the following entities:~~
 - ~~(a) The state tax commission.~~
 - ~~(b) Local tax assessing officers.~~
 - ~~(c) Township and county clerks.~~
 - ~~(d) The natural rivers unit of the Michigan department of natural resources.~~

R 281.326 Zoning permits; site plans; certificates of zoning compliance Rescinded.

- ~~Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.327(1). Plans submitted in application of a zoning permit shall contain the necessary information for determining compliance with these rules.~~
- ~~(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. Such site plan shall include the entire area proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, shall have the authority to require adjustments in the site plan as a condition for approval if such adjustments are deemed necessary to ensure that the proposed development meets all standards contained in these rules and does not excessively disturb the natural river environment or the general character of the area. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:~~
 - ~~(a) Site plan drawn to scale, with the scale indicated.~~
 - ~~(b) Property dimensions.~~
 - ~~(c) The size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.~~
 - ~~(d) Existing vegetation, including the location and type.~~
 - ~~(e) Adjacent streets and highways.~~

- ~~(f) Parking areas.~~
- ~~(g) Bluff heights.~~
- ~~(h) Entrances to public streets.~~
- ~~(i) A description of the building design, including proposed construction materials.~~
- ~~(j) Drainage facilities.~~
- ~~(k) The location and description of the method to dispose of sanitary wastes.~~
- ~~(l) Proposed landscaping.~~
- ~~(m) The location of footpaths.~~
- ~~(n) Signs proposed, including the size, location, and material.~~
- ~~(o) North arrow.~~
- ~~(p) Date of drawing.~~
- ~~(q) Detailed site location map.~~
- ~~(r) Any additional information deemed by the zoning administrator or zoning review board to be necessary to carry out the administrator's or board's duties. Examples of such information include the following:~~
 - ~~(i) Soil types.~~
 - ~~(ii) Topography.~~
 - ~~(iii) Building elevations.~~
 - ~~(iv) Site photographs.~~
 - ~~(v) Anticipated traffic volumes.~~
 - ~~(vi) Traffic circulation patterns.~~
 - ~~(vii) Other pertinent site information.~~
- ~~(3) A building, structure, lot, or use for which a zoning permit has been issued shall not be occupied or used until the zoning administrator has, after final inspection, issued a certificate of zoning compliance indicating compliance with all of the provisions of these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. Buildings accessory to dwellings shall not require separate certificates of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling when shown on the site plan and when completed at the same time as such dwellings. A record of all certificates issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy required by local building codes.~~

R 281.327 Land use and development standards Rescinded.

~~Rule 7. Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:~~

- ~~(a) Exempt uses are uses permitted by right which are not subject to receipt of a zoning permit. Exempt uses include all of the following:~~
 - ~~(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.~~
 - ~~(ii) Reforestation and other accepted forest management practices, subject to the limitations outlined in R 281.281(6)(b).~~
 - ~~(iii) Agriculture, including general and specialized farming, unless the bureau of environmental protection of the Michigan department of natural resources determines that such use will significantly contribute to stream degradation.~~

- ~~(iv) The operation of licensed motor vehicles on dedicated public roads or private roads designed to provide access to a permitted use.~~
- ~~(v) The off-road operation of emergency and public utility maintenance vehicles. The off-road operation of other motorized vehicles is prohibited in the natural vegetation strip as described in R 281.281(6).~~
- ~~(vi) Private footpaths that are constructed by the landowner of natural materials to facilitate access to permitted uses.~~
- ~~(vii) Residential identification signs subject to the provisions of R 281.281(7) and provided that both of the following provisions are complied with:
 - ~~(A) Signs shall serve to identify the name of dwelling occupants only and not to advertise a business or service.~~
 - ~~(B) One sign shall be permitted per lot or parcel, which shall not be more than 1 square foot in area.~~~~
- ~~(viii) Real estate signs, if all the following provisions are complied with:
 - ~~(A) A sign shall be of a temporary nature and shall not be more than 4 square feet.~~
 - ~~(B) One sign shall be allowed per parcel, which shall not be located in the natural vegetation strip.~~
 - ~~(C) A sign shall be removed within 14 days of the sale of the advertised parcel.~~~~
- ~~(ix) "No Trespassing" signs if such signs are not more than 1 square foot in area and are spaced a minimum of 100 feet apart.~~
- ~~(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator.~~

~~Principal uses include all of the following:~~

 - ~~(i) Single family dwellings, if all the following provisions are complied with:
 - ~~(A) Only 1 dwelling shall be permitted per lot of record.~~
 - ~~(B) Each lot shall be a minimum of 50,000 square feet.~~
 - ~~(C) A dwelling lot along the Au Sable river main stream, north branch or south branch, shall have a minimum average width of 200 feet throughout its length. A dwelling lot along any other designated tributary shall have a minimum average width of 150 feet throughout its length.~~
 - ~~(D) Building setback for lots, including all appurtenances and accessory buildings, shall be a minimum of 200 feet from the ordinary high watermark on the main stream, north branch and south branch, and 100 feet on all other designated tributaries. The setback may be decreased 1 foot for every 1 foot rise in bank height to a minimum of 150 feet from the ordinary high watermark on the main stream, north branch and south branch, and to a minimum of 75 feet from the ordinary high watermark on all other designated tributaries. Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.~~
 - ~~(E) Side yards shall be a minimum of 10 feet from side lot lines.~~
 - ~~(F) Rear yard setback shall be a minimum of 25 feet from the rear lot line. In many instances, the rear lot line of lots with river frontage will coincide with the right of way line of a public or private road.~~~~
 - ~~(ii) Accessory buildings that meet the setback requirements of paragraph (i) of this subdivision; however, the rear yard setback may be reduced to 15 feet.~~
 - ~~(iii) A private boat dock.~~
 - ~~(iv) Utility lines to service private, single family dwellings.~~
 - ~~(v) Disposal fields and septic tanks, if all of the following provisions are complied with:~~

- ~~(A) The fields and tanks shall be located not less than 150 feet from the ordinary high watermark.~~
- ~~(B) A septic tank or absorption field shall not be located closer than 100 feet to any surface or subsurface drainage system that enters into the Au Sable river or its designated tributaries.~~
- ~~(C) The bottom of the pit associated with an earth privy shall not be less than 4 feet above the known high groundwater table.~~
- ~~(vi) Mining and extracting industries, if located not less than 300 feet from the ordinary high watermark.~~
- ~~(vii) Residential single-family dwelling plats, if the minimum standards specified in paragraph (i) of this subdivision are met.~~
- ~~(viii) Home occupations.~~
- ~~(ix) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the existing, natural, land surface.~~
- ~~(c) The Au Sable river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. Such uses may result in intensities of development and use higher than to be anticipated under the exempt and principal uses. To ensure that such uses do not contravene the goals and objectives of the Au Sable river natural river plan and these rules, and to ensure compatibility with adjacent uses, such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:~~
 - ~~(i) Detached rental cabins, if all of the following provisions are complied with:~~
 - ~~(A) Cabins shall not be operated as motels, but may offer light housekeeping services.~~
 - ~~(B) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of river frontage. Clustering of rental cabins is encouraged; however, the ratio of 1 cabin per 200 feet of river frontage shall not be exceeded.~~
 - ~~(C) Each cabin and all associated buildings, structures, or other related devices shall be set back a minimum of 40 feet from all property lines and 200 feet from the ordinary high watermark.~~
 - ~~(D) Parking for the cabins shall be limited to 2 spaces per cabin and the spaces shall be located to the rear (landward side) of the building.~~
 - ~~(E) The exterior of a cabin shall be constructed of natural materials with natural or earth tone colors to blend with the surrounding environment.~~
 - ~~(F) Cabins or grounds shall not contain signage within the district, except for directional signage that is not more than 1 square foot in area per sign. Directional signage shall be for the purposes of directing vehicular and pedestrian traffic to cabins and facilities and for identifying individual cabins. Signage shall not be visible from the river.~~
 - ~~(G) Boat docks may be erected for the private use of occupants of the rental cabins and their guests. Docks shall be in compliance with the requirements of R 281.281 and both of the following provisions:~~
 - ~~(1) Docks may be constructed at the rate of 1 dock for each permitted rental cabin.~~
 - ~~(2) Access to a dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~
 - ~~(ii) Campgrounds, including tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, cement pads, and utility hookups, if all of the following provisions are complied with:~~
 - ~~(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.~~

- ~~(B) Campgrounds shall be a minimum of 10 acres.~~
- ~~(C) A commercial enterprise shall not be permitted to operate in the campground, except that a convenience goods shopping building that is not more than 1,500 square feet may be provided in campgrounds that have more than 140 sites. The exterior of such buildings shall be constructed of natural material. The building shall not be more than 1 story in height.~~
- ~~(D) Each site and all associated buildings, structures, and other related devices shall be set back a minimum of 50 feet from all property lines and 300 feet from the ordinary high watermark.~~
- ~~(E) Fences and greenbelts may be required by the zoning review board for campgrounds that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material indigenous to the area or as approved by the zoning review board.~~
- ~~(F) Vehicular parking shall be limited to 2 spaces per individual camping site.~~
- ~~(G) A camping site shall not have more than 4 sites per acre.~~
- ~~(H) A campground shall not contain signage within the district, except for directional signage that is not more than 1 square foot in area per sign. Directional signage shall be for the purposes of directing vehicular and pedestrian traffic to camping sites and facilities and for identifying individual campsites. Signage shall not be visible from the river.~~
- ~~(I) Boat docks may be erected for the private use of the occupants of the campsites and their guests if both of the following provisions are complied with:~~
 - ~~(1) The total number of docks shall not be more than 1 dock for each 200 feet of river frontage.~~
 - ~~(2) Access to the dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~
- ~~(iii) Canoe, boat, and other watercraft liveries, if all of the following provisions are complied with:~~
 - ~~(A) Parked vehicles and off-season canoe and boat storage areas shall not be visible from the river.~~
 - ~~(B) Boat docks may be erected at the ratio of 1 dock per 200 feet of river frontage.~~
 - ~~(C) Other than the rental of canoes and boats, other commercial enterprises shall not be permitted to operate.~~
 - ~~(D) A rental office which is associated with the operation of the livery and which does not have more than 225 square feet may be constructed. The exterior of the building shall be constructed of natural material. The building shall not be more than 1 story in height.~~
 - ~~(E) Access to the dock or docks or place of river entry from the canoe or boat rental office shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~
 - ~~(F) The livery shall not contain signage within the district, except for directional signage that is not more than 1 square foot in area per sign. Directional signage shall be for the purpose of directing patrons to parking areas and launch sites. Signage shall not be visible from the river.~~

R 281.328 Application and approval; procedures and standards; principal uses and special uses
Rescinded.

- ~~Rule 8. (1) The application for a principal use shall be submitted and processed under the following procedures:~~
 - ~~(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and returned to the zoning administrator. A completed application shall contain all of the following information:~~
 - ~~(i) A completed application form signed by the applicant or the applicant's representative.~~
 - ~~(ii) Two copies of a site plan that meets the requirements of R 281.326(2).~~

- ~~(iii) Evidence of ownership or legal interest in the property affected by the application for a principal use.~~
- ~~(b) Within 15 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.~~
- ~~(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~
- ~~(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.~~
- ~~(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~
- ~~(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. Application for an extension shall be made before permit expiration. Any subsequent extensions shall have the written approval of the zoning review board.~~
- ~~(2) The application for a special use permit shall be submitted and processed under the following procedures:~~
 - ~~(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and returned to the zoning administrator. A completed application shall contain all of the following information and attachments:~~
 - ~~(i) A completed application form signed by the applicant or the applicant's representative.~~
 - ~~(ii) Eight copies of a site plan that meets the requirements of R 281.326(2).~~
 - ~~(iii) Evidence of ownership or legal interest in the property affected by the application for a special use.~~
 - ~~(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property which is being considered for a special use.~~
 - ~~(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.~~
 - ~~(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:~~
 - ~~(i) One notice shall be published in a newspaper which circulates in the township in which the proposal is located.~~
 - ~~(ii) Notice shall be sent by first class mail or personal delivery to the owners of property for which approval is being considered and to all persons identified in subdivision (a)(iv) of this subrule.~~
 - ~~(iii) Notice shall also be sent to all of the following entities:~~
 - ~~(A) The natural rivers unit of the Michigan department of natural resources.~~
 - ~~(B) Local tax assessing officials.~~
 - ~~(C) Township and county clerks.~~
 - ~~(D) Local building inspectors.~~
 - ~~(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.327(3), be satisfied:~~
 - ~~(i) That the purposes noted in R 281.322 are accomplished.~~

- ~~(ii) That the proposed special use is compatible with adjacent uses of land and the natural environment and that the capacities of public services and facilities are adequate.~~
- ~~(iii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.~~
- ~~(iv) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.~~
- ~~(e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.~~
- ~~(f) The concurring vote of a majority of the members of the zoning review board shall be required to approve a special use.~~
- ~~(g) A special use granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.~~
- ~~(h) If it is determined by the zoning review board that the applicant has failed to comply with any of the requirements of these rules or the approval granted, the board, after a public hearing held in accordance with the provisions of subdivision (c) of this subrule, may revoke any special use approval.~~
- ~~(i) Any application for a special use which has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, new and significant facts and conditions exist which might result in favorable action upon resubmission.~~
- ~~(j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.~~
- ~~(k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was used is completed.~~

R 281.329 Variances and variance hearings Rescinded.

~~Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board, after a public hearing, or in certain instances by the zoning administrator, to allow a modification from such standard establishing area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in carrying out the strict letter of these rules. A variance shall be permitted only when it is in harmony with the general purposes and intent of these rules.~~

~~(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in carrying out the strict letter of these rules as specified in subrule (1) of this rule:~~

- ~~(a) How substantial the variance is in relation to the zoning requirements.~~
- ~~(b) Whether a substantial change will be affected in the character of the area or a substantial detriment created for adjoining properties.~~
- ~~(c) Whether the difficulty can be overcome by some feasible method other than a variance.~~
- ~~(d) Whether, in view of the manner in which the difficulty arose, and considering all of the factors specified in subdivisions (a) to (c) of this subrule, the interests of justice will be served by allowing the variance.~~
- ~~(e) Whether the plight of the landowner is due to circumstances unique to his or her property not created by the landowner.~~

- ~~(f) Whether the variance may result in a material adverse effect on the environment.~~
- ~~(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact detailing the reasons for approval or denial of the minor variance request. Minor variances include any of the following:~~
 - ~~(a) Setbacks for uses on lawful lots which are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps.~~
 - ~~(b) Setbacks for uses on lawful nonconforming lots, including lots within subdivisions, which are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps. Conditions may be imposed on an applicant before granting a variance. Such conditions shall be in writing and signed by the applicant before the applicant receives a variance.~~
 - ~~(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, in its sole discretion, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors are found to exist:~~
 - ~~(a) That property cannot be used in a manner consistent with existing zoning.~~
 - ~~(b) That the hardship results from the application of these rules to the applicant's property.~~
 - ~~(c) That the hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.~~
 - ~~(d) That the hardship is not the result of the applicant's own actions.~~
 - ~~(e) That the hardship is peculiar to the applicant's own property.~~
 - ~~(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor which could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.~~
 - ~~(6) The zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:~~
 - ~~(a) The use will be harmonious with and in accordance with the general objectives of the Au Sable river natural river plan.~~
 - ~~(b) The use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the general vicinity.~~
 - ~~(c) The use will not be hazardous or disturbing to existing or future neighboring uses.~~
 - ~~(d) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or that the persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such service.~~
 - ~~(e) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the local community.~~
 - ~~(f) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, the general welfare, or the environmental quality of the district because of the excessive production of traffic, noise, smoke,~~

~~fumes, glare or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.~~

~~(g) The use will be consistent with the intent and purposes of these rules.~~

~~(h) The use or the structures to be used therefor will not cause an overcrowding of the land or an undue concentration of population resulting in degradation to the river and district.~~

~~(i) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.~~

~~(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow that established for special use applications by the provisions of R 281.328(2)(c). A decision shall be made within 30 days after the hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of a majority of the members of the zoning review board shall be necessary to effect a dimensional variance in these rules, except that a concurring vote of 2/3 of the members of the board of appeals shall be necessary to grant a land use variance permitted in these rules.~~

~~(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.~~

~~(9) The effect of any variance shall be to create a nonconforming land use or structure which shall then be subject to the terms of R 281.330, which regulates continued use.~~

R 281.330 Nonconforming uses, lots, and structures Rescinded.

~~Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended which would be prohibited, regulated, or restricted under the terms of these rules or future amendments. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit limited expansion of certain legal nonconforming uses and structures.~~

~~(2) Any nonconforming (substandard) lot shall be in compliance with the minimum requirements of the dimensional requirements of these rules, except as such substandard nonconforming lot may be used pursuant to the provisions of R 281.329.~~

~~(3) Where, at the effective date of the promulgation or amendment of these rules, a lawful use of land exists that is made unlawful under the terms of these rules as promulgated or amended, such use may be continued if it remains otherwise lawful, subject to all of the following provisions:~~

~~(a) Such nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of promulgation or amendment of these rules.~~

~~(b) Such nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of promulgation or amendment of these rules, unless such move would result in a greater degree of conformity with these rules.~~

~~(c) If such nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of such land shall conform to the requirements specified by these rules.~~

~~(4) Where a lawful structure exists at the effective date of promulgation or amendment of these rules that is made unlawful under the terms of these rules as promulgated or amended, such structure may be continued if it remains lawful, subject to all of the following provisions:~~

~~(a) Such structure shall not be enlarged or altered in a way which increases its nonconformity; however, when a single family dwelling is classified as nonconforming, alterations, repairs, and additions, including accessory buildings, may be erected if the gross floor area of all such alterations, repairs, and additions, including accessory buildings, is not more than 50% of the gross floor area of the nonconforming dwelling, cumulative from the date of nonconformance to the date of the request if any enlargement to a lawful nonconforming structure, to the extent possible, is in compliance with all setback and other building requirements. Expansion of a lawful, nonconforming single family dwelling shall be handled as a variance pursuant to the provisions of R 281.329.~~

~~(b) If such nonconforming structure is destroyed by any means to an extent of more than 60% of its replacement cost, it shall not be reconstructed for its original nonconforming use.~~

~~(c) Such nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such structure at the effective date of promulgation or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.~~

R 281.331 Zoning administrator and zoning review board; appointment; duties **Rescinded.**

~~Rule 11. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.~~

~~(2) The duties of the zoning administrator include the following:~~

~~(a) Provide necessary forms and applications and receive and process applications.~~

~~(b) Determine and verify zoning compliance when the applicant's plans are found to conform with the provisions of these rules.~~

~~(c) Conduct site inspections to ensure compliance with these rules.~~

~~(d) Issue any authorized permits and certificates of zoning compliance.~~

~~(e) Identify and record information relative to nonconformities.~~

~~(f) Maintain files of applications, permits, and other relevant documents.~~

~~(g) Schedule meetings and hearings for, and provide assistance to, the zoning review board.~~

~~(h) Act on variances as permitted by the provisions of R 281.329(3).~~

~~(3) The duties of the zoning review board are as follows:~~

~~(a) Adopt rules of procedure governing the transaction of its business.~~

~~(b) Act upon requests for special use permits.~~

~~(c) Act on certain dimensional and land use variances pursuant to the provisions of R 281.329.~~

~~(d) Act on the interpretation of the official zoning map pursuant to the provisions of R 281.325(2)(g).~~

~~(4) In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following entities:~~

~~(a) Affected townships and counties.~~

~~(b) Soil conservation districts.~~

~~(c) Property owners' associations.~~

~~(d) Other interested local organizations and citizens.~~

~~(5) The commission shall request each affected township to appoint 1 person to represent its interest on matters within its jurisdiction. The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons~~

shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The commission shall request that each affected soil conservation district appoint 1 person to represent its interest on matters within its jurisdiction. Representatives appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.

~~(6) In accord with procedures specified in subrule (5) of this rule, the commission shall request that each governmental unit and organization appointing regular members to the zoning review board shall also appoint 1 alternate member to represent the governmental unit or organization. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the zoning review board.~~

~~(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, for educational purposes, or to conduct any manner of business as provided for by these rules.~~

R 281.332 Appeals; contested cases Rescinded.

~~Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

R 281.333 Violations; effect; remedies Rescinded.

~~Rule 13. (1) Uses of land and dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed, or converted in violation of these rules are nuisances per se.~~

~~(2) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates the provisions of these rules.~~

~~The commission shall not waive any of its rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provisions of these rules. Any permit, variance, or action authorized that is contrary to the provisions of these rules is deemed illegal and invalid from the date of the authorization.~~

~~(3) In addition to all other remedies, the commission may institute appropriate action or proceedings to prevent, restrain, correct, or abate violations or threatened violations and it is the duty of the commission to institute such action.~~

~~R 281.334 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules~~ **Rescinded.**

~~Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.322.~~

~~(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to the provisions of sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws.~~

~~(3) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:~~

~~(a) The county register of deeds.~~

~~(b) Township and county clerks.~~

~~(c) The local building inspector.~~

~~(d) Local soil erosion and sedimentation control enforcement agencies.~~

~~(e) The soil conservation district.~~

~~(4) Upon approval by the director, a local zoning ordinance which meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Au Sable river natural river district through court action or for any other reason, these rules shall apply.~~

R 281.341 Definitions Rescinded.

~~Rule 1. As used in these rules:~~

~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.~~

~~(b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:~~

~~(i) Garages.~~

~~(ii) Residential storage sheds.~~

~~(iii) Barns and other agricultural storage and livestock structures.~~

~~(iv) Pump houses.~~

~~(v) Wells.~~

~~(vi) Private access roads.~~

~~(vii) Sanitary facilities.~~

~~(viii) Electrical service lines.~~

~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~

~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~

- ~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~
- ~~(f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.~~
- ~~(g) "Commission" means the natural resources commission.~~
- ~~(h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~
- ~~(i) "Director" means the director of the department of natural resources.~~
- ~~(j) "Family" means either of the following:~~
 - ~~(i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2 additional unrelated persons, are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.~~
 - ~~(ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing nontransient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.~~
- ~~(k) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, to serve as an aid to the infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.~~
- ~~(l) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (q) of this rule.~~
- ~~(m) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.~~
- ~~(n) "Front" means that segment of a lot or parcel abutting the river's edge of the main stream or tributary.~~
- ~~(o) "Front yard" means setback as provided for in R 281.347(b)(i)(D).~~
- ~~(p) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home as a use which is clearly incidental and secondary to the use of the home as a dwelling place.~~
- ~~(q) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.~~
- ~~(r) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~
- ~~(s) "Lot area" means the area inside the lot lines.~~
- ~~(t) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.~~

- ~~(u) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.~~
- ~~(v) "Natural river district" means the Pere Marquette river natural river district as described in the provisions of R 281.345.~~
- ~~(w) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~
- ~~(x) "Rear yard" means that yard opposite the front yard.~~
- ~~(y) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.~~
- ~~(z) "River's edge" means the ordinary high watermark as used in the provisions of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (w) of this rule.~~
- ~~(aa) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~
- ~~(bb) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~
- ~~(cc) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~
- ~~(dd) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are used less than 30 days per year and if they are located landward of the natural vegetation strip or if the facilities are located on a campsite within a campground that is licensed under the provisions of Act No. 368 of the Public Acts of 1978, as amended, being S333.1101 et seq. of the Michigan Compiled Laws, if both the individual campsite and the campground were established before the effective date of these rules.~~
- ~~(ee) "Zoning administrator" means the administrator of these rules who is appointed by the commission.~~
- ~~(ff) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with all of the provisions of these rules.~~
- ~~(gg) "Zoning review board" means a group of not less than 3, nor more than 7, people which includes not less than 2 local representatives and 1 department of natural resources representative who is familiar with the local area and which is appointed by the commission to act upon requests as provided for by these rules.~~

R 281.342 Purpose; intent; scope Rescinded.

~~Rule 2. (1) The commission, on its own motion, to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence~~

of local zoning to protect the Pere Marquette river, a designated natural river, promulgates these zoning rules for the following purposes:

- ~~(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to misuse, unwise development patterns, overerowding, and overuse within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.~~
- ~~(b) To protect the free flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Pere Marquette river and adjoining land.~~
- ~~(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~
- ~~(d) To provide for uses that complement the natural characteristics of the natural river system.~~
- ~~(e) To protect individuals from investing funds in structures that are proposed for location on lands which are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~
- ~~(f) To achieve the goals and objectives of the Pere Marquette river natural river plan.~~
- ~~(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.~~
- ~~(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder, the provisions of Act No. 231 of the Public Acts of 1970, and the rules promulgated thereunder shall apply.~~

R 281.343 Construction of language; severability **Rescinded.**

~~Rule 3. (1) All of the following rules of construction apply to the text of these rules:~~

- ~~(a) The particular shall control over the general.~~
- ~~(b) In the case of any difference of meaning or implication between the text of these rules and any caption or illustration, the text shall control.~~
- ~~(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.~~
- ~~(d) Words used in the present tense shall include the future. Words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.~~
- ~~(e) A "building" or "structure" includes any part thereof.~~
- ~~(f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."~~
- ~~(g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.~~
- ~~(h) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions, or events~~

connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:

- ~~(i) "And" indicates that all of the connected items, conditions, or provisions shall apply.~~
- ~~(ii) "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.~~
- ~~(iii) "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.~~
- ~~(i) Terms not defined in these rules shall have the meanings customarily assigned to them.~~
- ~~(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.~~

R 281.344 ~~Lot size and area; subdivision of land; home occupations; natural vegetation strip; signs; docks; height of structures~~ **Rescinded.**

~~Rule 4. (1) Unless otherwise provided for within these rules, any lot or parcel of property created after the effective date of these rules, or amendments thereto, shall have a minimum area of 50,000 square feet and a minimum average width of 200 feet throughout the length of the lot or parcel on the Pere Marquette river main stream, big south branch, little south branch, middle branch, and Baldwin river, and a minimum average width of 150 feet on all other designated tributaries. The average lot width shall be based on the average of the combined widths of the front and rear lot lines.~~

~~(2) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.~~

~~(3) Proposed lots which have preliminary plat approval pursuant to the provisions of Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.349.~~

~~(4) Lots of record which are created before the effective date of these rules, or amendments thereto, and which do not possess sufficient land area or lot width may be used for the purposes described within these rules, subject to the requirements provided for in R 281.349.~~

~~(5) Home occupations shall conform to both of the following requirements:~~

~~(a) The use of the dwelling unit, or related structure, for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation shall not occupy more than 30% of the aboveground floor area of the dwelling unit. This requirement shall apply whether the home occupation is contained wholly within the dwelling unit or utilizes a garage.~~

~~(b) Equipment or a process shall not be used in a home occupation that is conducted in a single-family dwelling unit or its associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses off the premises and shall not be used in a home occupation that is conducted in other than a single family dwelling unit or an associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses outside the dwelling unit.~~

~~(6) Within the natural river district, not less than a 75 foot restrictive cutting belt shall be maintained on each side of the main stream of the Pere Marquette river main stream, big south~~

~~branch, little south branch, and Baldwin river, and not less than a 50-foot restrictive cutting belt shall be maintained on each side of all other designated tributaries. Trees and shrubs may be pruned for a filtered view of the river, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to all of the following provisions:~~

~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy and poison sumac, may be removed.~~

~~(b) The selected removal or trimming of trees for timber harvest, access or woodlot improvements, landscaping, public utility lines to service private single family dwellings and other permitted uses is permitted upon approval of the zoning administrator.~~

~~(c) Camping is not permitted in the natural vegetation strip.~~

~~(7) Signs shall not be visible from the river, except:~~

~~(a) "No Trespassing" signs if the signs are not more than 1 square foot in area and are spaced a minimum of 100 feet apart.~~

~~(b) One identification sign of rustic design, associated with a canoe livery, campground or rental cabins, which is not more than 6 square feet in area. The sign shall be for the purpose of identification of a designated watercraft landing site and shall be located at the designated landing site.~~

~~(c) Signs posted by public agencies to provide for public safety such as warning of impending dangers in the river, or to identify a public access site or campground. Such signs may need to be larger than 6 square feet in area to accomplish their designated purpose. Signs which identify a public access site or campground shall be of rustic design.~~

~~(8) Private boat docks shall be in compliance with all of the following requirements:~~

~~(a) Docks shall not be more than 4 feet in width and not more than 20 feet in length, with not more than 4 feet of the dock extending over the edge of the river.~~

~~(b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is~~

~~(c) Unless provided for within these rules, only 1 dock shall be constructed per lot.~~

~~(9) Unless otherwise provided for within these rules, a structure shall not be more than 2 1/2 stories in height, not including a basement.~~

R 281.345 Boundaries; interpretation of boundaries; filing of zoning map **Rescinded.**

~~Rule 5. (1) The boundaries of the Pere Marquette river natural river district shall be as described in these rules and as depicted on the certified Pere Marquette river natural river zoning map. The Pere Marquette river natural river zoning district comprises an area which is described as follows:~~

~~(a) The main stream of the Pere Marquette from the junction of the middle branch and the little south branch, commonly known as the "Forks", located in Lake county, to the U.S. 31 highway bridges in Mason county, excluding that portion of the river within the city of Scottville.~~

~~(b) Swan creek from Darr road downstream to its confluence with the Pere Marquette river.~~

~~(c) Weldon creek from the outfall of Romeo lake downstream to its confluence with the Pere Marquette river.~~

~~(d) The big south branch from the confluence of Beaver creek with Winnepesaug creek downstream to its confluence with the Pere Marquette river.~~

~~(e) Cedar creek from M 37 downstream to its confluence with the big south branch.~~

~~(f) Ruby creek from its source in section 6, township 16 north, range 15 west, downstream to its confluence with the big south branch.~~

- ~~(g) Carr creek, excluding that portion of the stream which branches north in section 14, township 17 north, range 15 west, from north branch road downstream to its confluence with the big south branch.~~
- ~~(h) Sweetwater creek from its source in section 21, township 18 north, range 14 west, downstream to its confluence with the Pere Marquette river.~~
- ~~(i) Kinney creek from the outfall of Wingleton lake in section 31 of township 18 north, range 13 west, downstream to its confluence with the Pere Marquette river.~~
- ~~(j) Danaher creek from the C & O railroad in section 27, township 17 north, range 13 west, downstream to its confluence with the Pere Marquette river.~~
- ~~(k) The Baldwin river, excluding that portion in the village of Baldwin, from the outfall of the widewaters in section 22, township 19 north, range 12 west, downstream to its confluence with the Pere Marquette river.~~
- ~~(l) Cole creek to its confluence with the Baldwin river, including the north branch of Cole creek, from big spring in section 15, township 18 north, range 12 west, downstream to its confluence with the south branch of Cole creek; the south branch of Cole creek from the east line of section 21, township 18 north, range 12 west, downstream to its confluence with the north branch of Cole creek.~~
- ~~(m) Bray creek from the outfall of Bray lake in section 26, township 18 north, range 13 west, downstream to its confluence with the Baldwin river.~~
- ~~(n) Sandborn creek, excluding that portion in the village of Baldwin, from State road downstream to its confluence with the Baldwin river.~~
- ~~(o) Leverentz creek from the outfall of Leverentz lake in section 35, township 18 north, range 13 west, downstream to its confluence with the Baldwin river.~~
- ~~(p) The middle branch from Bonney road downstream to the "Forks."~~
- ~~(q) Blood creek from its source in township 17 north, range 12 west, downstream to its confluence with the middle branch.~~
- ~~(r) The little south branch from U.S. forest service road 5309 where it crosses the stream in section 9, township 15 north, range 12 west, downstream to the "Forks."~~
- ~~(s) McDuffee creek from 13 Mile road, township 16 north, range 12 west, downstream to its confluence with the little south branch.~~
- ~~(t) The Pease creek system, all of which lies in township 18 north, range 12 west, Newaygo county.~~
- ~~(u) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (t) of this subrule.~~
- ~~(2) Where uncertainty exists with respect to the boundaries of the district as shown on the zoning map, all of the following provisions shall apply:~~
 - ~~(a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.~~
 - ~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.~~
 - ~~(c) Boundaries that are indicated as approximately following city, village, township, or county boundary lines shall be construed as following the city, village, township, or county boundary lines.~~
 - ~~(d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.~~
 - ~~(e) Boundaries that are indicated as following shorelines shall be construed to follow the shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines.~~

~~Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerline.~~

~~(f) Boundaries that are indicated as parallel to or extensions of features indicated in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.~~

~~(g) Where physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, the zoning review board shall interpret the district boundaries.~~

~~(h) Insofar as a portion or all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights of way, it is intended that the district boundaries do extend to the center of any public right of way.~~

~~(3) Certified copies of the Pere Marquette river natural river zoning map shall be filed with all of the following entities:~~

~~(a) The state tax commission.~~

~~(b) Local tax assessing officers.~~

~~(c) Township and county clerks.~~

~~(d) The natural rivers unit of the Michigan department of natural resources.~~

R 281.346 Zoning permits; site plans; certificates of zoning compliance Rescinded.

~~Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.347(1). Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.~~

~~(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, shall have the authority to require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:~~

~~(a) A site plan drawn to scale, with the scale indicated.~~

~~(b) Property dimensions.~~

~~(c) The size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.~~

~~(d) Existing vegetation, including the location and type.~~

~~(e) Adjacent streets and highways.~~

~~(f) Parking areas.~~

~~(g) Bluff heights.~~

~~(h) Entrances to public streets.~~

~~(i) A description of the building design, including proposed construction materials.~~

~~(j) Drainage facilities.~~

~~(k) The location and description of the method to dispose of sanitary wastes.~~

~~(l) Proposed landscaping.~~

- ~~(m) The location of footpaths.~~
- ~~(n) Signs proposed, including the size, location, and material.~~
- ~~(o) North arrow.~~
- ~~(p) Date of drawing.~~
- ~~(q) Detailed site location map.~~
- ~~(r) Any additional information deemed by the zoning administrator or zoning review board to be necessary to carry out the administrator's or board's duties. Examples of such information include the following:~~
 - ~~(i) Soil types.~~
 - ~~(ii) Topography.~~
 - ~~(iii) Building elevations.~~
 - ~~(iv) Site photographs.~~
 - ~~(v) Anticipated traffic volumes.~~
 - ~~(vi) Traffic circulation patterns.~~
 - ~~(vii) Other pertinent site information.~~
- ~~(3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certifies compliance with all of the provisions of these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is an accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes.~~

R 281.347 Land use and development standards **Rescinded.**

- ~~Rule 7. Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:~~
 - ~~(a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:~~
 - ~~(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.~~
 - ~~(ii) Reforestation and other accepted forest management practices, subject to the limitations specified in R 281.344(6)(b).~~
 - ~~(iii) Agriculture, including general and specialized farming, unless the bureau of environmental protection of the Michigan department of natural resources determines that such use will significantly contribute to stream degradation.~~
 - ~~(iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.~~
 - ~~(v) The off road operation of emergency and public utility maintenance vehicles. The off road operation of other motorized vehicles is prohibited in the natural vegetation strip as specified in R 281.344(6).~~
 - ~~(vi) Private footpaths that are constructed by the landowner of natural materials to facilitate access to permitted uses.~~

~~(vii) Signs, subject to the provisions of R 281.344(7).~~

~~(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator.~~

~~Principal uses include all of the following:~~

~~(i) Single family dwellings, if all of the following provisions are complied with:~~

~~(A) Only 1 dwelling shall be permitted per lot of record.~~

~~(B) Each lot shall be not less than 50,000 square feet.~~

~~(C) A dwelling lot along the Pere Marquette river main stream, big south branch, little south branch, middle branch, and Baldwin river shall have a minimum average width of 200 feet throughout its length. A dwelling lot along any other designated tributary shall have a minimum average width of 150 feet throughout its length.~~

~~(D) Building setback for lots, including all appurtenances and accessory buildings, shall be not less than 150 feet from the ordinary high watermark on the main stream, the big south branch, the little south branch, the middle branch, and the Baldwin river and 100 feet on all other designated tributaries. The setback may be decreased 1 foot for every 1 foot of rise in bank height to a minimum of 100 feet from the ordinary high watermark on the main stream and to a minimum of 75 feet from the ordinary high watermark on all other designated tributaries. Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.~~

~~(ii) Accessory buildings that meet the setback requirements of paragraph (i) of this subdivision.~~

~~(iii) A private boat dock.~~

~~(iv) Utility lines to service private, single family dwellings.~~

~~(v) Disposal fields and septic tanks, if all of the following provisions are complied with:~~

~~(A) The fields and tanks shall be located not less than 150 feet from the ordinary high watermark.~~

~~(B) A septic tank or absorption field shall not be located closer than 50 feet to any surface or subsurface drainage system that enters into the Pere Marquette river or its designated tributaries.~~

~~(C) The bottom of the pit associated with an earth privy shall not be less than 4 feet above the known high groundwater table.~~

~~(vi) Mining and extracting industries, if located not less than 300 feet from the ordinary high watermark.~~

~~(vii) Residential single family dwelling plats, if the minimum standards specified in paragraph (i) of this subdivision are met.~~

~~(viii) Home occupations.~~

~~(ix) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the existing natural land surface.~~

~~(c) The Pere Marquette river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. Such uses may result in intensities of development and use higher than would be anticipated under the exempt and principal uses. To ensure that such uses do not contravene the goals and objectives of the Pere Marquette river natural river plan and these rules such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:~~

~~(i) Detached rental cabins, if all of the following provisions are complied with:~~

~~(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of river frontage. Clustering of rental cabins is encouraged; however, the ratio of 1 cabin per 200 feet of river frontage shall not be exceeded.~~

~~(B) Each cabin and all associated buildings, structures, or other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.~~

~~(C) Fences and greenbelts may be required by the zoning review board for rental cabins that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.~~

~~(D) Boat docks may be erected for the private use of occupants of the rental cabins and their guests. Docks shall be in compliance with the requirements of R 281.344 and both of the following provisions:~~

~~(1) Docks may be constructed at the rate of 1 dock for each permitted rental cabin.~~

~~(2) Access to a dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

~~(ii) Campgrounds, including tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, cement pads, and utility hookups, if all of the following provisions are complied with:~~

~~(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.~~

~~(B) A commercial enterprise shall not be permitted to operate in the campground within the natural river district, except that a convenience goods shopping building that is not more than 1,500 square feet may be provided. The building shall not be more than 1 story in height.~~

~~(C) Each site and all associated buildings, structures, and other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.~~

~~(D) Fences and greenbelts may be required by the zoning review board for campgrounds that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.~~

~~(E) A camping site shall not have more than 4 sites per acre. Clustering of campsites is encouraged; however, the ratio of 4 sites per acre shall not be exceeded.~~

~~(F) Boat docks may be erected for the private use of the occupants of the campsites and their guests if both of the following provisions are complied with:~~

~~(1) The total number of docks shall not be more than 1 dock for each 200 feet of river frontage.~~

~~(2) Access to the dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

~~(iii) Canoe, boat, and other watercraft liveries, if all of the following provisions are complied with:~~

~~(A) Parked vehicles and off-season canoe and boat storage areas shall not be visible from the river.~~

~~(B) Boat docks may be erected at the ratio of 1 dock per 200 feet of river frontage.~~

~~(C) Other than the rental of watercraft, other commercial enterprises shall not be permitted to operate.~~

~~(D) A rental office which is associated with the operation of the livery and which does not have more than 225 square feet may be constructed. The building shall not be more than 1 story in height.~~

~~(E) Access to the dock or docks or place of river entry from the canoe or boat rental office shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

**R 281.348 Application and approval; procedures and standards; principal uses and special uses
Rescinded.**

~~Rule 8. (1) An application for a principal use shall be submitted and processed under the following procedures:~~

~~(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:~~

~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~

~~(ii) Two copies of a site plan that meets the requirements of R 281.346(2).~~

~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.~~

~~(b) Within 15 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.~~

~~(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.~~

~~(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

~~(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. Application for an extension shall be made before permit expiration. Any subsequent extensions shall have the written approval of the zoning review board.~~

~~(2) An application for a special use permit shall be submitted and processed under the following procedures:~~

~~(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:~~

~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~

~~(ii) Eight copies of a site plan that meets the requirements of R 281.346(2).~~

~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.~~

~~(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property which is being considered for a special use.~~

~~(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.~~

~~(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:~~

~~(i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.~~

- ~~(ii) Notice shall be sent by first class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in subdivision (a)(iv) of this subrule.~~
- ~~(iii) Notice shall also be sent to all of the following entities:~~
 - ~~(A) The natural rivers unit of the Michigan department of natural resources.~~
 - ~~(B) Local tax assessing officials.~~
 - ~~(C) Township and county clerks.~~
 - ~~(D) Local building inspectors.~~
- ~~(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.347(e), be satisfied:~~
 - ~~(i) That the purposes noted in R 281.342 are accomplished.~~
 - ~~(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.~~
 - ~~(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.~~
- ~~(e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.~~
- ~~(f) The concurring vote of a majority of the members of the zoning review board shall be required to approve a special use.~~
- ~~(g) A special use that is granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.~~
- ~~(h) If it is determined by the zoning review board that the applicant has failed to comply with any of the requirements of these rules or the approval granted, the board, after a public hearing held in accordance with the provisions of subdivision (e) of this subrule, may revoke any special use approval.~~
- ~~(i) An application for a special use which has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, new and significant facts and conditions exist which might result in favorable action upon resubmission.~~
- ~~(j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.~~
- ~~(k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

R 281.349 Variances and variance hearings Rescinded.

~~Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or, in certain instances, by the zoning administrator as provided in subrule (3) of this rule to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in carrying out the strict letter of these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.~~

~~(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in carrying out the strict letter of these rules as specified in subrule (1) of this rule:~~

~~(a) How substantial the variance is in relation to the zoning requirements.~~

~~(b) Whether a substantial change will be affected in the character of the area or a substantial detriment created for adjoining properties.~~

~~(c) Whether the difficulty can be overcome by some feasible method other than a variance.~~

~~(d) Whether, in view of the manner in which the difficulty arose, and considering all of the factors specified in subdivisions (a) to (c) of this subrule, the interests of justice will be served by allowing the variance.~~

~~(e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.~~

~~(f) Whether the variance may result in a material adverse effect on the environment.~~

~~(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances include the variances specified in the following provisions:~~

~~(a) Reductions in setbacks for uses on lawful lots that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps.~~

~~(b) Reductions in setbacks for uses on lawful nonconforming lots, including lots within subdivisions, that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps. Conditions may be imposed on an applicant before granting a variance. Such conditions shall be in writing and signed by the applicant before the applicant receives a variance.~~

~~(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors exist:~~

~~(a) The property cannot be used in a manner that is consistent with existing zoning.~~

~~(b) The hardship results from the application of these rules to the applicant's property.~~

~~(c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.~~

~~(d) The hardship is not the result of the applicant's own actions.~~

~~(e) The hardship is peculiar to the applicant's own property.~~

~~(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor which could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.~~

~~(6) The zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:~~

~~(a) The use will be consistent with and in accordance with the general objectives of the Pere Marquette river natural river plan.~~

- ~~(b) The use will be designed, constructed, operated, and maintained so as to be consistent with and appropriate in appearance with the existing or intended character of the natural river district and that such use will not change the essential character of the natural river district.~~
- ~~(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or that the persons or agencies that are responsible for the establishment of the proposed use shall be able to adequately provide any such service.~~
- ~~(d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.~~
- ~~(e) The use will be consistent with the intent and purposes of these rules.~~
- ~~(f) The use or the structures to be used therefor will not cause an overcrowding of the land or an undue concentration of population that will result in degradation to the river and district.~~
- ~~(g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.~~
- ~~(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow that established for special use applications by the provisions of R 281.348(2)(c). A decision shall be made within 30 days after the hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of a majority of the members of the zoning review board shall be necessary to effect a dimensional variance in these rules, except that a concurring vote of 2/3 of the members of the board of appeals shall be necessary to grant a land use variance permitted in these rules.~~
- ~~(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.~~
- ~~(9) The effect of any variance shall be to create a nonconforming land use or structure which shall then be subject to the terms of R 281.350, which regulates continued use.~~

R 281.350 Nonconforming uses, lots, and structures Rescinded.

- ~~Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted under the terms of these rules or future amendments. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit the limited expansion of certain legal nonconforming uses and structures.~~
- ~~(2) A nonconforming (substandard) lot shall be in compliance with the minimum requirements of the dimensional requirements of these rules, except as such substandard nonconforming lot may be used pursuant to the provisions of R 281.349.~~
- ~~(3) Where, at the effective date of these rules or amendment of these rules, a lawful use of land exists that is made unlawful under the terms of these rules as promulgated or amended, the use may be continued if it remains otherwise lawful, subject to all of the following provisions:~~

~~(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of these rules or amendment of these rules, except in the case of campgrounds, canoe liveries, and rental cabins which do not meet the standards for special uses specified in R 281.347(c). Such legal nonconforming uses may be expanded if the increased use meets the standards for special uses specified in R 281.347(c). Expansion of a lawful, nonconforming use shall be treated as a variance pursuant to the provisions of R 281.349.~~

~~(b) The nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.~~

~~(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.~~

~~(4) Where a lawful structure exists at the effective date of these rules or amendment of these rules that is made unlawful under the terms of these rules as promulgated or amended, the structure may be continued if it remains lawful, subject to all of the following provisions:~~

~~(a) The structure shall not be enlarged or altered in a way which increases its nonconformity; however, when a single family dwelling or a structure associated with a campground, a canoe livery, or rental cabins is classified as nonconforming, alterations, repairs, and additions, including accessory buildings, may be erected if the gross floor area of all such alterations, repairs, and additions, including accessory buildings, is not more than 50% of the gross floor area of the nonconforming structure, cumulative from the date of nonconformance to the date of the request if any enlargement to a lawful nonconforming structure, to the extent possible, is in compliance with all setback and other building requirements. Expansion of a lawful, nonconforming structure shall be treated as a variance pursuant to the provisions of R 281.349.~~

~~(b) If the nonconforming structure is destroyed by any means to an extent that is more than 50% of its replacement cost, restoration of the structure shall be treated as a variance pursuant to the provisions of R 281.349. In determining whether the structure has been destroyed to an extent that is more than 50% of its replacement cost, the zoning review board or zoning administrator shall use appraised replacement costs, as determined by a qualified individual who is appointed by the zoning review board or zoning administrator, and shall compare the value of the part destroyed to the value of the total operating unit where there are several structures which are used together by the landowner as a single operating unit. The request for restoration of a nonconforming structure which is destroyed to an extent that is more than 50% of its replacement value shall be approved if all of the following conditions exist:~~

~~(i) The land on which the building or structure is located is not subject to flooding.~~

~~(ii) The continued use of a nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.~~

~~(iii) The continued use conforms with local county health codes and is approved by the local county health department.~~

~~(iv) The continued use conforms with local building codes and is approved by the local building inspector.~~

~~(v) The restoration of a damaged structure that is approved by the zoning review board or zoning administrator shall be started within 1 year from the time of damage.~~

~~(c) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.~~

R 281.351 Zoning administrator and zoning review board; appointment; duties ~~Rescinded.~~

~~Rule 11. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.~~

~~(2) The zoning administrator shall do all of the following:~~

~~(a) Provide necessary forms and applications and receive and process applications.~~

~~(b) Determine and verify zoning compliance when the applicant's plans are found to conform with the provisions of these rules.~~

~~(c) Conduct site inspections to ensure compliance with these rules.~~

~~(d) Issue any authorized permits and certificates of zoning compliance.~~

~~(e) Identify and record information relative to nonconformities.~~

~~(f) Maintain files of applications, permits, and other relevant documents.~~

~~(g) Schedule meetings and hearings for, and provide assistance to, the zoning review board.~~

~~(h) Act on variances as permitted by the provisions of R 281.349(3).~~

~~(3) The zoning review board shall do all of the following:~~

~~(a) Adopt rules of procedure that govern the transaction of its business.~~

~~(b) Act upon requests for special use permits.~~

~~(c) Act on certain dimensional and land use variances pursuant to the provisions of R 281.349.~~

~~(d) Act on the interpretation of the official zoning map pursuant to the provisions of R 281.345(2)(g).~~

~~(4) In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following entities:~~

~~(a) Affected townships and counties.~~

~~(b) Soil conservation districts.~~

~~(c) Property owners' associations.~~

~~(d) Other interested local organizations and citizens.~~

~~(5) The commission shall request each affected township to appoint 1 person to represent its interest on matters within its jurisdiction. The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The commission shall request that each affected soil conservation district appoint 1 person to represent its interest on matters within its jurisdiction. Representatives who are appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.~~

~~(6) In accord with procedures specified in subrule (5) of this rule, the commission shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.~~

~~(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.~~

R 281.352 Appeals; contested cases Rescinded.

~~Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

R 281.353 Violations; effect; remedies Rescinded.

~~Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates the provisions of these rules. The commission shall not waive any of its rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to the provisions of these rules is deemed invalid from the date of the authorization.~~

~~(2) In addition to all other remedies, the commission may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.~~

R 281.354 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules Rescinded.

~~Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.342.~~

~~(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:~~

- ~~(a) The county register of deeds.~~
- ~~(b) Township and county clerks.~~
- ~~(c) The local building inspector.~~
- ~~(d) Local soil erosion and sedimentation control enforcement agencies.~~
- ~~(e) The soil conservation district.~~

~~(3) Upon approval by the director, a local zoning ordinance that meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance~~

~~becomes inapplicable to the land area encompassed by the Pere Marquette river natural river district through court action or for any other reason, these rules shall apply.~~

R 281.355 Rescission Rescinded.

~~Rule 15. R 281.101 to R 281.114 of the Michigan Administrative Code, appearing on pages 134 to 144 of the 1981 annual supplement to the 1979 Michigan Administrative Code, are rescinded.~~

R 281.361 Definitions Rescinded.

~~Rule 1. As used in these rules:~~

- ~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.~~
- ~~(b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:~~
 - ~~(i) Garages.~~
 - ~~(ii) Residential storage sheds.~~
 - ~~(iii) Barns and other agricultural storage or livestock structures.~~
 - ~~(iv) Pump houses.~~
 - ~~(v) Wells.~~
 - ~~(vi) Private access roads.~~
 - ~~(vii) Sanitary facilities.~~
 - ~~(viii) Electrical service lines.~~
- ~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~
- ~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~
- ~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~
- ~~(f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.~~
- ~~(g) "Commission" means the natural resources commission.~~
- ~~(h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~
- ~~(i) "Director" means the director of the department of natural resources.~~
- ~~(j) "Family" means either of the following:~~
 - ~~(i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2 additional unrelated persons, are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.~~
 - ~~(ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing nontransient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.~~

- ~~(k) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, to serve as an aid to the infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view.~~
~~"Filtered view of the river" means no clear cutting.~~
- ~~(l) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (q) of this rule.~~
- ~~(m) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.~~
- ~~(n) "Front" means that segment of a lot or parcel abutting the river's edge of the main stream or tributary.~~
- ~~(o) "Front yard" means setback as provided for in R 281.367(b)(i)(D).~~
- ~~(p) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home as a use which is clearly incidental and secondary to the use of the home as a dwelling place.~~
- ~~(q) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.~~
- ~~(r) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~
- ~~(s) "Lot area" means the area inside the lot lines.~~
- ~~(t) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.~~
- ~~(u) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.~~
- ~~(v) "Natural river district" means the Rifle river natural river district as described in the provisions of R 281.365.~~
- ~~(w) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~
- ~~(x) "Rear yard" means that yard opposite the front yard.~~
- ~~(y) "Reforestation" means the renewal of vegetative cover by seeding, planting or transplanting.~~
- ~~(z) "River's edge" means the ordinary high watermark as used in the provisions of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (w) of this rule.~~
- ~~(aa) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~
- ~~(bb) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~

~~(cc) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~

~~(dd) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are used less than 30 days per year and if they are located landward of the natural vegetation strip or if the facilities are located on a campsite within a campground that is licensed under the provisions of Act No. 368 of the Public Acts of 1978, as amended, being S333.1101 et seq. of the Michigan Compiled Laws, if both the individual campsite and the campground were established before the effective date of these rules.~~

~~(ee) "Zoning administrator" means the administrator of these rules who is appointed by the commission.~~

~~(ff) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with all of the provisions of these rules.~~

~~(gg) "Zoning review board" means a group of not less than 3, nor more than 7, people which includes not less than 2 local representatives and 1 department of natural resources representative who is familiar with the local area and which is appointed by the commission to act upon requests as provided for by these rules.~~

R 281.362 Purpose; intent; scope Rescinded.

~~Rule 2. (1) The commission, on its own motion, to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Rifle river, a designated natural river, promulgates these zoning rules for the following purposes:~~

~~(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.~~

~~(b) To protect the free flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Rifle river and adjoining land.~~

~~(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~

~~(d) To provide for uses that complement the natural characteristics of the natural river system.~~

~~(e) To protect individuals from investing funds in structures that are proposed for location on lands which are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~

~~(f) To achieve the goals and objectives of the Rifle river natural river plan.~~

~~(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes~~

identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.

~~(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder, the provisions of Act No. 231 of the Public Acts of 1970, and the rules promulgated thereunder shall apply.~~

R 281.363 Construction of language; severability Rescinded.

~~Rule 3. (1) All of the following rules of construction apply to the text of these rules:~~

~~(a) The particular shall control over the general.~~

~~(b) In the case of any difference of meaning or implication between the text of these rules and any caption or illustration, the text shall control.~~

~~(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.~~

~~(d) Words used in the present tense shall include the future. Words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.~~

~~(e) A "building" or "structure" includes any part thereof.~~

~~(f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."~~

~~(g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.~~

~~(h) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:~~

~~(i) "And" indicates that all of the connected items, conditions, or provisions shall apply.~~

~~(ii) "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.~~

~~(iii) "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.~~

~~(i) Terms not defined in these rules shall have the meanings customarily assigned to them.~~

~~(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.~~

R 281.364 Lot size and area; subdivision of land; home occupations; natural vegetation strip; signs; docks; height of structures Rescinded.

~~Rule 4. (1) Unless otherwise provided for within these rules, any lot or parcel of property created after the effective date of these rules, or amendments thereto, shall have a minimum area of 50,000 square feet and a minimum average width of 200 feet throughout the length of the lot or parcel on the Rifle river main stream, and a minimum average width of 150 feet on all other designated tributaries. The average lot width shall be based on the average of the combined widths of the front and rear lot lines.~~

~~(2) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots~~

that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.

~~(3) Proposed lots which have preliminary plat approval pursuant to the provisions of Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.369.~~

~~(4) Lots of record which are created before the effective date of these rules, or amendments thereto, and which do not possess sufficient land area or lot width may be used for the purposes described within these rules, subject to the requirements provided for in R 281.369.~~

~~(5) Home occupations shall conform to both of the following requirements:~~

~~(a) The use of the dwelling unit, or related structure, for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation shall not occupy more than 30% of the aboveground floor area of the dwelling unit. This requirement shall apply whether the home occupation is contained wholly within the dwelling unit or utilizes a garage.~~

~~(b) Equipment or a process shall not be used in a home occupation that is conducted in a single-family dwelling unit or its associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses off the premises and shall not be used in a home occupation that is conducted in other than a single-family dwelling unit or an associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses outside the dwelling unit.~~

~~(6) Within the natural river district, not less than a 75-foot restrictive cutting belt shall be maintained on each side of the main stream of the Rifle river, and a 50-foot minimum restrictive cutting belt shall be maintained on each side of all other designated tributaries. Trees and shrubs may be pruned for a filtered view of the river, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to all of the following provisions:~~

~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy and poison sumac, may be removed.~~

~~(b) The selected removal or trimming of trees for timber harvest, access or woodlot improvements, landscaping, public utility lines to service private single-family dwellings and other permitted uses is permitted upon approval of the zoning administrator.~~

~~(c) Camping is not permitted in the natural vegetation strip.~~

~~(7) Signs shall not be visible from the river, except:~~

~~(a) "No Trespassing" signs if the signs are not more than 1 square foot in area and are spaced a minimum of 100 feet apart.~~

~~(b) One identification sign of rustic design, associated with a canoe livery, campground, or rental cabins, which is not more than 6 square feet in area. The sign shall be for the purpose of identification of a designated watercraft landing site and shall be located at the designated landing site.~~

~~(c) Signs posted by public agencies to provide for public safety such as warning of impending dangers in the river, or to identify a public access site or campground. Such signs may need to be larger than 6 square feet in area to accomplish their designated purpose. Signs which identify a public access site or campground shall be of rustic design.~~

~~(8) Private boat docks shall be in compliance with all of the following requirements:~~

~~(a) Docks shall not be more than 4 feet in width and not more than 12 feet in length, with not more than 4 feet of the dock extending over the edge of the river.~~

- ~~(b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.~~
- ~~(c) Unless provided for within these rules, only 1 dock shall be constructed per lot.~~
- ~~(9) Unless otherwise provided for within these rules, a structure shall not be more than 2 1/2 stories in height, not including a basement.~~

R 281.365 Boundaries; interpretation of boundaries; filing of zoning map **Rescinded.**

~~Rule 5. (1) The boundaries of the Rifle river natural river district shall be as described in these rules and as depicted on the certified Rifle river natural river zoning map. The Rifle river natural river zoning district comprises an area which is described as follows:~~

- ~~(a) The main stream of the Rifle river from and including Mallard pond to the northern city limits of Omer, including all channels of the mainstream, except the old channels leading into and out of Devoe lake.~~
- ~~(b) Gamble creek from Heath road in township 24 north, range 3 east, to Mallard pond in the Rifle river recreation area.~~
- ~~(c) Vaughn creek from Heath road in township 24 north, range 3 east, to its confluence with Gamble creek.~~
- ~~(d) Oyster creek from Oyster road in township 24 north, range 3 east, to its confluence with Mallard pond.~~
- ~~(e) Mayhue creek from the pond in section 28 of township 24 north, range 3 east, to its confluence with Oyster creek.~~
- ~~(f) Houghton creek from Heath road in township 24 north, range 3 east, to its confluence with the Rifle river.~~
- ~~(g) Wilkins creek from Campbell road in township 23 north, range 2 east, to its confluence with the Rifle river.~~
- ~~(h) Prior creek from Morrison road in township 23 north, range 3 east, to its confluence with the Rifle river.~~
- ~~(i) Klacking creek from its source in Foose swamp in township 23 north, range 2 east, to its confluence with the Rifle river.~~
- ~~(j) Little Klacking creek from its source in section 26 of township 23 north, range 2 east, to its confluence with Klacking creek.~~
- ~~(k) Dedrich creek from Gerald Miller road in township 22 north, range 3 east, to its confluence with the Rifle river.~~
- ~~(l) West branch from the outfall of Flowage lake in township 22 north, range 2 east, to its confluence with the Rifle river.~~
- ~~(m) North and south branches of Eddy creek from M 33 in township 21 north, range 3 east, to its confluence with the Rifle river.~~
- ~~(n) Silver creek from Elbow lake road in township 21 north, range 3 east, to its confluence with the Rifle river.~~
- ~~(o) Mansfield creek from Melita road in township 21 north, range 3 east, to its confluence with the Rifle river.~~
- ~~(p) Fritz creek from Fritz road in township 20 north, range 4 east, to its confluence with the Rifle river.~~
- ~~(q) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (p) of this subrule.~~

~~(2) Where uncertainty exists with respect to the boundaries of the district as shown on the zoning map, all of the following provisions shall apply:~~

~~(a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.~~

~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.~~

~~(c) Boundaries that are indicated as approximately following city, village, township, or county boundary lines shall be construed as following the city, village, township, or county boundary lines.~~

~~(d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.~~

~~(e) Boundaries that are indicated as following shorelines shall be construed to follow the shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines.~~

~~Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerline.~~

~~(f) Boundaries that are indicated as parallel to or extensions of features specified in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.~~

~~(g) Where physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, the zoning review board shall interpret the district boundaries.~~

~~(h) Insofar as a portion or all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, it is intended that the district boundaries do extend to the center of any public right-of-way.~~

~~(3) Certified copies of the Rifle river natural river zoning map shall be filed with all of the following entities:~~

~~(a) The state tax commission.~~

~~(b) Local tax assessing officers.~~

~~(c) Township and county clerks.~~

~~(d) The natural rivers unit of the Michigan department of natural resources.~~

R 281.366 Zoning permits; site plans; certificates of zoning compliance Rescinded.

~~Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.367(1). Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.~~

~~(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, shall have the authority to require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case~~

~~of a special use application, a site plan shall show and include all of the following, either existing or proposed:~~

- ~~(a) A site plan drawn to scale, with the scale indicated.~~
- ~~(b) Property dimensions.~~
- ~~(c) The size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.~~
- ~~(d) Existing vegetation, including the location and type.~~
- ~~(e) Adjacent streets and highways.~~
- ~~(f) Parking areas.~~
- ~~(g) Bluff heights.~~
- ~~(h) Entrances to public streets.~~
- ~~(i) A description of the building design, including proposed construction materials.~~
- ~~(j) Drainage facilities.~~
- ~~(k) The location and description of the method to dispose of sanitary wastes.~~
- ~~(l) Proposed landscaping.~~
- ~~(m) The location of footpaths.~~
- ~~(n) Signs proposed, including the size, location, and material.~~
- ~~(o) North arrow.~~
- ~~(p) Date of drawing.~~
- ~~(q) Detailed site location map.~~
- ~~(r) Any additional information deemed by the zoning administrator or zoning review board to be necessary to carry out the administrator's or board's duties. Examples of such information include the following:~~
 - ~~(i) Soil types.~~
 - ~~(ii) Topography.~~
 - ~~(iii) Building elevations.~~
 - ~~(iv) Site photographs.~~
 - ~~(v) Anticipated traffic volumes.~~
 - ~~(vi) Traffic circulation patterns.~~
 - ~~(vii) Other pertinent site information.~~
- ~~(3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certified compliance with all of the provisions of these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwellings. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes.~~

R 281.367 Land use and development standards Rescinded.

~~Rule 7. Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:~~

- ~~(a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:~~

~~(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.~~

~~(ii) Reforestation and other accepted forest management practices, subject to the limitations specified in R 281.364(6)(b).~~

~~(iii) Agriculture, including general and specialized farming, unless the bureau of environmental protection of the Michigan department of natural resources determines that such use will significantly contribute to stream degradation.~~

~~(iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.~~

~~(v) The off-road operation of emergency and public utility maintenance vehicles. The off-road operation of other motorized vehicles is prohibited in the natural vegetation strip as specified in R 281.364(6).~~

~~(vi) Private footpaths that are constructed by the landowner of natural materials to facilitate access to permitted uses.~~

~~(vii) Signs, subject to the provisions of R 281.364(7).~~

~~(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator.~~

~~Principal uses include all of the following:~~

~~(i) Single family dwellings, if all of the following provisions are complied with:~~

~~(A) Only 1 dwelling shall be permitted per lot of record.~~

~~(B) Each lot shall be not less than 50,000 square feet.~~

~~(C) A dwelling lot along the Rifle river main stream shall have a minimum average width of 200 feet throughout its length. A dwelling lot along any other designated tributary shall have a minimum average width of 150 feet throughout its length.~~

~~(D) Building setback for lots, including all appurtenances and accessory buildings, shall be not less than 150 feet from the ordinary high watermark on the main stream and 100 feet on all other designated tributaries. The setback may be decreased 1 foot for every 1 foot of rise in bank height to a minimum of 100 feet from the ordinary high watermark on the main stream and to a minimum of 75 feet from the ordinary high watermark on all other designated tributaries. Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.~~

~~(ii) Accessory buildings that meet the setback requirements of paragraph (i) of this subdivision.~~

~~(iii) A private boat dock.~~

~~(iv) Utility lines to service private, single family dwellings.~~

~~(v) Disposal fields and septic tanks, if all of the following provisions are complied with:~~

~~(A) The fields and tanks shall be located not less than 150 feet from the ordinary high watermark.~~

~~(B) A septic tank or absorption field shall not be located closer than 50 feet to any surface or subsurface drainage system that enters into the Rifle river or its designated tributaries.~~

~~(C) The bottom of the pit associated with an earth privy shall not be less than 4 feet above the known high groundwater table.~~

~~(vi) Mining and extracting industries, if located not less than 300 feet from the ordinary high watermark.~~

~~(vii) Residential single family dwelling plats, if the minimum standards specified in paragraph (i) of this subdivision are met.~~

~~(viii) Home occupations.~~

~~(ix) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the existing natural land surface.~~

~~(c) The Rifle river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. Such uses may result in intensities of development and use higher than would be anticipated under the exempt and principal uses. To ensure that such uses do not contravene the goals and objectives of the Rifle river natural river plan and these rules such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board.~~

~~Special uses and their development standards include all of the following:~~

~~(i) Detached rental cabins, if all of the following provisions are complied with:~~

~~(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of river frontage. Clustering of rental cabins is encouraged; however, the ratio of 1 cabin per 200 feet of river frontage shall not be exceeded.~~

~~(B) Each cabin and all associated buildings, structures, or other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.~~

~~(C) Fences and greenbelts may be required by the zoning review board for rental cabins that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.~~

~~(D) Boat docks may be erected for the private use of occupants of the rental cabins and their guests. Docks shall be in compliance with the requirements of R 281.364 and both of the following provisions:~~

~~(1) Docks may be constructed at the rate of 1 dock for each permitted rental cabin.~~

~~(2) Access to a dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

~~(ii) Campgrounds, including tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, cement pads, and utility hookups, if all of the following provisions are complied with:~~

~~(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.~~

~~(B) A commercial enterprise shall not be permitted to operate in the campground within the natural river district, except that a convenience goods shopping building that is not more than 1,500 square feet may be provided. The building shall not be more than 1 story in height.~~

~~(C) Each site and all associated buildings, structures, and other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.~~

~~(D) Fences and greenbelts may be required by the zoning review board for campgrounds that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.~~

~~(E) A camping site shall not have more than 4 sites per acre. Clustering of campsites is encouraged; however, the ratio of 4 sites per acre shall not be exceeded.~~

~~(F) Boat docks may be erected for the private use of the occupants of the campsites and their guests if both of the following provisions are complied with:~~

~~(1) The total number of docks shall not be more than 1 dock for each 200 feet of river frontage.~~

~~(2) Access to the dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

~~(iii) Canoe, boat, and other watercraft liveries, if all of the~~

following provisions are complied with:

~~(A) Parked vehicles and off-season canoe and boat storage areas shall not be visible from the river.~~

~~(B) Boat docks may be erected at the ratio of 1 dock per 200 feet of river frontage.~~

~~(C) Other than the rental of watercraft, other commercial enterprises shall not be permitted to operate.~~

~~(D) A rental office which is associated with the operation of the livery and which does not have more than 225 square feet may be constructed. The building shall not be more than 1 story in height.~~

~~(E) Access to the dock or docks or place of river entry from the canoe or boat rental office shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

**R 281.368 Application and approval; procedures and standards; principal uses and special uses
Rescinded.**

~~Rule 8. (1) An application for a principal use shall be submitted and processed under the following procedures:~~

~~(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:~~

~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~

~~(ii) Two copies of a site plan that meets the requirements of R 281.366(2).~~

~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.~~

~~(b) Within 15 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.~~

~~(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.~~

~~(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

~~(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. Application for an extension shall be made before permit expiration. Any subsequent extensions shall have the written approval of the zoning review board.~~

~~(2) An application for a special use permit shall be submitted and processed under the following procedures:~~

~~(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:~~

~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~

~~(ii) Eight copies of a site plan that meets the requirements of R 281.366(2).~~

- ~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.~~
- ~~(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property which is being considered for a special use.~~
- ~~(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.~~
- ~~(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:~~
 - ~~(i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.~~
 - ~~(ii) Notice shall be sent by first class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in subdivision (a)(iv) of this subrule.~~
 - ~~(iii) Notice shall also be sent to all of the following entities:~~
 - ~~(A) The natural rivers unit of the Michigan department of natural resources.~~
 - ~~(B) Local tax assessing officials.~~
 - ~~(C) Township and county clerks.~~
 - ~~(D) Local building inspectors.~~
- ~~(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.367(c), be satisfied:~~
 - ~~(i) That the purposes noted in R 281.362 are accomplished.~~
 - ~~(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.~~
 - ~~(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.~~
- ~~(e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.~~
- ~~(f) The concurring vote of a majority of the members of the zoning review board shall be required to approve a special use.~~
- ~~(g) A special use that is granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1 year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.~~
- ~~(h) If it is determined by the zoning review board that the applicant has failed to comply with any of the requirements of these rules or the approval granted, the board, after a public hearing held in accordance with the provisions of subdivision (c) of this subrule, may revoke any special use approval.~~
- ~~(i) An application for a special use which has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, new and significant facts and conditions exist which might result in favorable action upon resubmission.~~
- ~~(j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.~~
- ~~(k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

R 281.369 Variances and variance hearings **Rescinded.**

~~Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or, in certain instances by the zoning administrator as provided in subrule (3) of this rule to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in carrying out the strict letter of these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.~~

~~(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in carrying out the strict letter of these rules as specified in subrule (1) of this rule:~~

~~(a) How substantial the variance is in relation to the zoning requirements.~~

~~(b) Whether a substantial change will be affected in the character of the area or a substantial detriment created for adjoining properties.~~

~~(c) Whether the difficulty can be overcome by some feasible method other than a variance.~~

~~(d) Whether, in view of the manner in which the difficulty arose, and considering all of the factors specified in subdivisions (a) to (c) of this subrule, the interests of justice will be served by allowing the variance.~~

~~(e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.~~

~~(f) Whether the variance may result in a material adverse effect on the environment.~~

~~(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances include the variances specified in the following provisions:~~

~~(a) Reductions in setbacks for uses on lawful lots that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps.~~

~~(b) Reductions in setbacks for uses on lawful nonconforming lots, including lots within subdivisions, that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps. Conditions may be imposed on an applicant before granting a variance. Such conditions shall be in writing and signed by the applicant before the applicant receives a variance.~~

~~(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors are found to exist:~~

~~(a) The property cannot be used in a manner that is consistent with existing zoning.~~

~~(b) The hardship results from the application of these rules to the applicant's property.~~

~~(c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.~~

~~(d) The hardship is not the result of the applicant's own actions.~~

~~(e) The hardship is peculiar to the applicant's own property.~~

- ~~(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor which could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.~~
- ~~(6) The zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:~~
 - ~~(a) The use will be consistent with and in accordance with the general objectives of the Rifle river natural river plan.~~
 - ~~(b) The use will be designed, constructed, operated, and maintained so as to be consistent with and appropriate in appearance with the existing or intended character of the natural river district and that such use will not change the essential character of the natural river district.~~
 - ~~(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or that the persons or agencies that are responsible for the establishment of the proposed use shall be able to adequately provide any such service.~~
 - ~~(d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.~~
 - ~~(e) The use will be consistent with the intent and purposes of these rules.~~
 - ~~(f) The use or the structures to be used therefor will not cause an overcrowding of the land or an undue concentration of population that will result in degradation to the river and district.~~
 - ~~(g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.~~
- ~~(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow that established for special use applications by the provisions of R 281.368(2)(c). A decision shall be made within 30 days after the hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of a majority of the members of the zoning review board shall be necessary to effect a dimensional variance in these rules, except that a concurring vote of 2/3 of the members of the board of appeals shall be necessary to grant a land use variance permitted in these rules.~~
- ~~(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.~~
- ~~(9) The effect of any variance shall be to create a nonconforming land use or structure which shall then be subject to the terms of R 281.370, which regulates continued use.~~

R 281.370 Nonconforming uses, lots, and structures Rescinded.

~~Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted under the terms of these rules~~

or future amendments. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit the limited expansion of certain legal nonconforming uses and structures.

~~(2) A nonconforming (substandard) lot shall be in compliance with the minimum requirements of the dimensional requirements of these rules, except as such substandard nonconforming lot may be used pursuant to the provisions of R 281.369.~~

~~(3) Where, at the effective date of these rules or amendment of these rules, a lawful use of land exists that is made unlawful under the terms of these rules as promulgated or amended, the use may be continued if it remains otherwise lawful, subject to all of the following provisions:~~

~~(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of these rules or amendment of these rules, except in the case of campgrounds, canoe liveries, and rental cabins which do not meet the standards for special uses specified in R 281.367(c). Such lawful, nonconforming uses may be expanded if the increased use meets the standards for special uses specified in R 281.367(c). Expansion of a lawful, nonconforming use shall be treated as a variance pursuant to the provisions of R 281.369.~~

~~(b) The nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.~~

~~(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.~~

~~(4) Where a lawful structure exists at the effective date of these rules or amendment of these rules that is made unlawful under the terms of these rules as promulgated or amended, the structure may be continued if it remains lawful, subject to all of the following provisions:~~

~~(a) The structure shall not be enlarged or altered in a way which increases its nonconformity; however, when a single family dwelling or a structure associated with a campground, canoe livery, or a rental cabin is classified as nonconforming, alterations, repairs, and additions, including accessory buildings, may be erected if the gross floor area of all such alterations, repairs, and additions, including accessory buildings, is not more than 50% of the gross floor area of the nonconforming structure, cumulative from the date of nonconformance to the date of the request if any enlargement to a lawful nonconforming structure, to the extent possible, is in compliance with all setback and other building requirements. Expansion of a lawful, nonconforming structure shall be treated as a variance pursuant to the provisions of R 281.369.~~

~~(b) If the nonconforming structure is destroyed by any means to an extent that is more than 50% of its replacement cost, restoration of the structure shall be treated as a variance pursuant to the provisions of R 281.369. In determining whether the structure has been destroyed to an extent that is more than 50% of its replacement cost, the zoning review board or zoning administrator shall use appraised replacement costs, as determined by a qualified individual who is appointed by the zoning review board or zoning administrator, and shall compare the value of the part destroyed to the value of the total operating unit where there are several structures which are used together by the landowner as a single operating unit. The request for restoration of a nonconforming structure which is destroyed to an extent that is more than 50% of its replacement value shall be approved if all of the following conditions exist:~~

~~(i) The land on which the structure is located is not subject to flooding.~~

~~(ii) The continued use of the nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.~~

- ~~(iii) The continued use conforms with local county health codes and is approved by the local county health department.~~
- ~~(iv) The continued use conforms with local building codes and is approved by the local building inspector.~~
- ~~(v) The restoration of a damaged structure that is approved by the zoning review board or zoning administrator shall be started within 1 year from the time of the damage.~~
- ~~(c) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.~~

R 281.371 Zoning administrator and zoning review board; appointment; duties ~~Rescinded.~~

~~Rule 11. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.~~

- ~~(2) The zoning administrator shall do all of the following:~~
 - ~~(a) Provide necessary forms and applications and receive and process applications.~~
 - ~~(b) Determine and verify zoning compliance when the applicant's plans are found to conform with the provisions of these rules.~~
 - ~~(c) Conduct site inspections to ensure compliance with these rules.~~
 - ~~(d) Issue any authorized permits and certificates of zoning compliance.~~
 - ~~(e) Identify and record information relative to nonconformities.~~
 - ~~(f) Maintain files of applications, permits, and other relevant documents.~~
 - ~~(g) Schedule meetings and hearings for, and provide assistance to, the zoning review board.~~
 - ~~(h) Act on variances as permitted by the provisions of R 281.369(3).~~
- ~~(3) The zoning review board shall do all of the following:~~
 - ~~(a) Adopt rules of procedure that govern the transaction of its business.~~
 - ~~(b) Act upon requests for special use permits.~~
 - ~~(c) Act on certain dimensional and land use variances pursuant to the provisions of R 281.369.~~
 - ~~(d) Act on the interpretation of the official zoning map pursuant to the provisions of R 281.365(2)(g).~~
- ~~(4) In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following entities:~~
 - ~~(a) Affected townships and counties.~~
 - ~~(b) Soil conservation districts.~~
 - ~~(c) Property owners' associations.~~
 - ~~(d) Other interested local organizations and citizens.~~
- ~~(5) The commission shall request each affected township to appoint 1 person to represent its interest on matters within its jurisdiction. The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The commission shall request that each affected soil conservation district appoint 1 person to represent its interest on matters within its jurisdiction. Representatives who are appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.~~

~~(6) In accord with procedures specified in subrule (5) of this rule, the commission shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.~~

~~(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.~~

R 281.372 Appeals; contested cases Rescinded.

~~Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

R 281.373 Violations; effect; remedies Rescinded.

~~Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates the provisions of these rules. The commission shall not waive any of its rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to the provisions of these rules is deemed invalid from the date of the authorization.~~

~~(2) In addition to all other remedies, the commission may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.~~

R 281.374 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules Rescinded.

~~Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.362.~~

~~(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:~~

- ~~(a) The county register of deeds.~~
- ~~(b) Township and county clerks.~~
- ~~(c) The local building inspector.~~

- ~~(d) Local soil erosion and sedimentation control enforcement agencies.~~
- ~~(e) The soil conservation district.~~
- ~~(3) Upon approval by the director, a local zoning ordinance that meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Rifle river natural river district through court action or for any other reason, these rules shall apply.~~

R 281.375 Rescission Rescinded.

~~Rule 15. R 281.171 to R 281.184 of the Michigan Administrative Code, appearing on pages 121 to 132 of the 1984 Annual Supplement to the 1979 Michigan Administrative Code, are rescinded.~~

R 281.381 Definitions Rescinded.

~~Rule 1. As used in these rules:~~

- ~~(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.~~
- ~~(b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:~~
 - ~~(i) Garages.~~
 - ~~(ii) Residential storage sheds.~~
 - ~~(iii) Barns and other agricultural storage and livestock structures.~~
 - ~~(iv) Pump houses.~~
 - ~~(v) Wells.~~
 - ~~(vi) Private access roads.~~
 - ~~(vii) Sanitary facilities.~~
 - ~~(viii) Electrical service lines.~~
- ~~(c) "Bluff" means a steep bank which rises sharply from the river's edge.~~
- ~~(d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.~~
- ~~(e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being S125.1501 et seq. of the Michigan Compiled Laws.~~
- ~~(f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.~~
- ~~(g) "Commission" means the natural resources commission.~~
- ~~(h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.~~
- ~~(i) "Director" means the director of the department of natural resources.~~
- ~~(j) "Family" means either of the following:~~

- ~~(i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2 additional unrelated persons who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.~~
- ~~(ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing nontransient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.~~
- ~~(k) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, to serve as an aid to the infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.~~
- ~~(l) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (q) of this rule.~~
- ~~(m) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.~~
- ~~(n) "Front" means that segment of a lot or parcel abutting the river's edge of the main stream or tributary.~~
- ~~(o) "Front yard" means setback as provided for in R 281.387(b)(i)(D).~~
- ~~(p) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home as a use which is clearly incidental and secondary to the use of the home as a dwelling place.~~
- ~~(q) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.~~
- ~~(r) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.~~
- ~~(s) "Lot area" means the area inside the lot lines.~~
- ~~(t) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.~~
- ~~(u) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.~~
- ~~(v) "Natural river district" means the White river natural river district as described in the provisions of R 281.385.~~
- ~~(w) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.~~
- ~~(x) "Rear yard" means that yard opposite the front yard.~~

- ~~(y) "Reforestation" means the renewal of vegetative cover by seeding, planting or transplanting.~~
- ~~(z) "River's edge" means the ordinary high watermark as used in the provisions of Act No. 346 of the Public Acts of 1972, being S281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (w) of this rule.~~
- ~~(aa) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.~~
- ~~(bb) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.~~
- ~~(cc) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being S282.101 et seq. of the Michigan Compiled Laws.~~
- ~~(dd) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are used less than 30 days per year and if they are located landward of the natural vegetation strip or if the facilities are located on a campsite within a campground that is licensed under the provisions of Act No. 368 of the Public Acts of 1978, as amended, being S333.1101 et seq. of the Michigan Compiled Laws, if both the individual campsite and the campground were established before the effective date of these rules.~~
- ~~(ee) "Zoning administrator" means the administrator of these rules who is appointed by the commission.~~
- ~~(ff) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with all of the provisions of these rules.~~
- ~~(gg) "Zoning review board" means a group of not less than 3, nor more than 7, people which includes not less than 2 local representatives and 1 department of natural resources representative who is familiar with the local area and which is appointed by the commission to act upon requests as provided for by these rules.~~

R 281.382 Purpose; intent; scope Rescinded.

~~Rule 2. (1) The commission, on its own motion, to implement the intent of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the White river, a designated natural river, promulgates these zoning rules for the following purposes:~~

- ~~(a) To promote the public health, safety, and general welfare; to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district; and to preserve the values of the natural river district for the benefit of present and future generations.~~
- ~~(b) To protect the free-flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the White river and adjoining land.~~
- ~~(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.~~

- ~~(d) To provide for uses that complement the natural characteristics of the natural river system.~~
- ~~(e) To protect individuals from investing funds in structures that are proposed for location on lands which are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.~~
- ~~(f) To achieve the goals and objectives of the White river natural river plan.~~
- ~~(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.~~
- ~~(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder, the provisions of Act No. 231 of the Public Acts of 1970, and the rules promulgated thereunder shall apply.~~

R 281.383 Construction of language; severability **Rescinded.**

- ~~Rule 3. (1) All of the following rules of construction apply to the text of these rules:~~
- ~~(a) The particular shall control over the general.~~
- ~~(b) In the case of any difference of meaning or implication between the text of these rules and any caption or illustration, the text shall control.~~
- ~~(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.~~
- ~~(d) Words used in the present tense shall include the future. Words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.~~
- ~~(e) A "building" or "structure" includes any part thereof.~~
- ~~(f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."~~
- ~~(g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.~~
- ~~(h) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:~~
- ~~(i) "And" indicates that all of the connected items, conditions, or provisions shall apply.~~
- ~~(ii) "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.~~
- ~~(iii) "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.~~
- ~~(i) Terms not defined in these rules shall have the meanings customarily assigned to them.~~
- ~~(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.~~

R 281.384 Lot size and area; subdivision of land; home occupations; natural vegetation strip; signs; docks; height of structures **Rescinded.**

~~Rule 4. (1) Unless otherwise provided for within these rules, any lot or parcel of property created after the effective date of these rules, or amendments thereto, shall have a minimum area of 50,000 square feet and a minimum average width of 200 feet throughout the length of the lot or parcel on the White river main stream and all designated tributaries. The average lot width shall be based on the average of the combined widths of the front and rear lot lines.~~

~~(2) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.~~

~~(3) Proposed lots which have preliminary plat approval pursuant to the provisions of Act No. 288 of the Public Acts of 1967, as amended, being S560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.389.~~

~~(4) Lots of record which are created before the effective date of these rules, or amendments thereto, and which do not possess sufficient land area or lot width may be used for the purposes described within these rules, subject to the requirements provided for in R 281.389.~~

~~(5) Home occupations shall conform to both of the following requirements:~~

~~(a) The use of the dwelling unit, or related structure, for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation shall not occupy more than 30% of the aboveground floor area of the dwelling unit. This requirement shall apply whether the home occupation is contained wholly within the dwelling unit or utilizes a garage.~~

~~(b) Equipment or a process shall not be used in a home occupation that is conducted in a single-family dwelling unit or its associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses off the premises and shall not be used in a home occupation that is conducted in other than a single-family dwelling unit or an associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses outside the dwelling unit.~~

~~(6) Within the natural river district, not less than a 50-foot restrictive cutting belt shall be maintained on each side of the main stream of the White river and all designated tributaries. Trees and shrubs may be pruned for a filtered view of the river, but clear-cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to all of the following provisions:~~

~~(a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy and poison sumac, may be removed.~~

~~(b) The selected removal or trimming of trees for timber harvest, access or woodlot improvements, landscaping, public utility lines to service private single-family dwellings and other permitted uses is permitted upon approval of the zoning administrator.~~

~~(c) Camping is not permitted in the natural vegetation strip.~~

~~(7) Signs shall not be visible from the river, except:~~

~~(a) "No Trespassing" signs if the signs are not more than 1 square foot in area and are spaced a minimum of 100 feet apart.~~

~~(b) One identification sign of rustic design, associated with a canoe livery, campground or rental cabins, which is not more than 6 square feet in area. The sign shall be for the purpose of identification of a designated watercraft landing site and shall be located at the designated landing site.~~

- ~~(c) Signs posted by public agencies to provide for public safety such as warning of impending dangers in the river, or to identify a public access site or campground. Such signs may need to be larger than 6 square feet in area to accomplish their designated purpose. Signs which identify a public access site or campground shall be of rustic design.~~
- ~~(8) Private boat docks shall be in compliance with all of the following requirements:~~
 - ~~(a) Docks shall not be more than 4 feet in width and not more than 20 feet in length, with not more than 4 feet of the dock extending over the edge of the river.~~
 - ~~(b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.~~
 - ~~(c) Unless provided for within these rules, only 1 dock shall be constructed per lot.~~
- ~~(9) Unless otherwise provided for within these rules, a structure shall not be more than 2 1/2 stories in height, not including a basement.~~

R 281.385 Boundaries; interpretation of boundaries; filing of zoning map ~~Rescinded.~~

~~Rule 5. (1) The boundaries of the White river natural river district shall be as described in these rules and as depicted on the certified White river natural river zoning map. The White river natural river zoning district comprises an area which is described as follows:~~

- ~~(a) The main stream of the White river from 8 Mile road, northwest corner of section 28, township 15 north, range 12 west in Nawaygo county downstream to US 31, Muskegon county, excluding the following: from the north city limit of White Cloud down to old M 20 west of the city, from the east city limit of Hesperia down to the west city limit and those portions within the city limits of Whitehall and Montague.~~
- ~~(b) Mullen creek from 6 Mile road downstream to White river.~~
- ~~(c) Five Mile creek from Pine avenue downstream to White river.~~
- ~~(d) Flinton creek from Pine avenue downstream to Catalpa avenue.~~
- ~~(e) Wrights creek from Comstock road downstream to White river.~~
- ~~(f) Mena creek from Minnie lake dam downstream to White river.~~
- ~~(g) Martin creek from Warner avenue in section 2, township 14 north, range 13 west, downstream to White river.~~
- ~~(h) East branch Heald creek from Croswell road downstream to Martin creek.~~
- ~~(i) Braton creek from Wilkie road downstream to White river.~~
- ~~(j) Cushman creek from 192nd avenue downstream to White river.~~
- ~~(k) Skeels creek from 192nd avenue (Holton Duck Lake road) downstream to White river.~~
- ~~(l) North branch White river from 197th avenue downstream to White river.~~
- ~~(m) Robinson creek from Woodrow road downstream to North branch.~~
- ~~(n) Swinton and Osborn (Cobmoosa) creek from Filmore road downstream to North branch.~~
- ~~(o) Newman creek from 132nd avenue downstream to North branch.~~
- ~~(p) Knutson creek from Garfield road downstream to North branch.~~
- ~~(q) Sand creek from outlet of Dressler lake downstream to White river.~~
- ~~(r) Carlton creek from Arthur road downstream to White river.~~
- ~~(s) Mud creek from outlet of Heitman lake downstream to Carlton creek.~~
- ~~(t) Carleton (Landford) creek from Walsh road downstream to White river.~~
- ~~(u) Silver creek from Silver creek road downstream to White river.~~
- ~~(v) Cleveland creek from Russell road downstream to White river.~~
- ~~(w) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (v) of this subrule.~~

~~(2) Where uncertainty exists with respect to the boundaries of the district as shown on the zoning map, all of the following provisions shall apply:~~

~~(a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.~~

~~(b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.~~

~~(c) Boundaries that are indicated as approximately following city, village, township, or county boundary lines shall be construed as following the city, village, township, or county boundary lines.~~

~~(d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.~~

~~(e) Boundaries that are indicated as following shorelines shall be construed to follow such shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines.~~

~~Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerline.~~

~~(f) Boundaries that are indicated as parallel to or extensions of features specified in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.~~

~~(g) Where physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, the zoning review board shall interpret the district boundaries.~~

~~(h) Insofar as a portion or all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, it is intended that the district boundaries do extend to the center of any public right-of-way.~~

~~(3) Certified copies of the White river natural river zoning map shall be filed with all of the following entities:~~

~~(a) The state tax commission.~~

~~(b) Local tax assessing officers.~~

~~(c) Township and county clerks.~~

~~(d) The natural rivers unit of the Michigan department of natural resources.~~

R 281.386 Zoning permits; site plans; certificates of zoning compliance Rescinded.

~~Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.387(1). Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.~~

~~(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, shall have the authority to require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case~~

~~of a special use application, a site plan shall show and include all of the following, either existing or proposed:~~

- ~~(a) A site plan drawn to scale, with the scale indicated.~~
- ~~(b) Property dimensions.~~
- ~~(c) The size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.~~
- ~~(d) Existing vegetation, including the location and type.~~
- ~~(e) Adjacent streets and highways.~~
- ~~(f) Parking areas.~~
- ~~(g) Bluff heights.~~
- ~~(h) Entrances to public streets.~~
- ~~(i) A description of the building design, including proposed construction materials.~~
- ~~(j) Drainage facilities.~~
- ~~(k) The location and description of the method to dispose of sanitary wastes.~~
- ~~(l) Proposed landscaping.~~
- ~~(m) The location of footpaths.~~
- ~~(n) Signs proposed, including the size, location, and material.~~
- ~~(o) North arrow.~~
- ~~(p) Date of drawing.~~
- ~~(q) Detailed site location map.~~
- ~~(r) Any additional information deemed by the zoning administrator or zoning review board to be necessary to carry out the administrator's or board's duties. Examples of such information include the following:~~
 - ~~(i) Soil types.~~
 - ~~(ii) Topography.~~
 - ~~(iii) Building elevations.~~
 - ~~(iv) Site photographs.~~
 - ~~(v) Anticipated traffic volumes.~~
 - ~~(vi) Traffic circulation patterns.~~
 - ~~(vii) Other pertinent site information.~~
- ~~(3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certifies compliance with all of the provisions of these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes.~~

R 281.387 Land use and development standards Rescinded.

~~Rule 7. Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:~~

- ~~(a) Exempt uses are uses which are permitted by right and which are not subject to receipt of a zoning permit. Exempt uses include all of the following:~~

~~(i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.~~

~~(ii) Reforestation and other accepted forest management practices, subject to the limitations specified in R 281.384(6)(b).~~

~~(iii) Agriculture, including general and specialized farming, unless the bureau of environmental protection of the Michigan department of natural resources determines that such use will significantly contribute to stream degradation.~~

~~(iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.~~

~~(v) The off-road operation of emergency and public utility maintenance vehicles. The off-road operation of other motorized vehicles is prohibited in the natural vegetation strip as specified in R 281.384(6).~~

~~(vi) Private footpaths that are constructed by the landowner of natural materials to facilitate access to permitted uses.~~

~~(vii) Signs, subject to the provisions of R 281.384(7).~~

~~(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator.~~

~~Principal uses include all of the following:~~

~~(i) Single family dwellings, if all of the following provisions are complied with:~~

~~(A) Only 1 dwelling shall be permitted per lot of record.~~

~~(B) Each lot shall be not less than 50,000 square feet.~~

~~(C) The dwelling lot shall have a minimum average width of 200 feet throughout its length.~~

~~(D) Building setback for lots, including all appurtenances and accessory buildings, shall be not less than 150 feet from the ordinary high watermark on the portions of the main stream from 8-mile road, northwest corner of section 28, T15N, R12W, Newaygo county, downstream to Lutes bridge (Baldwin road), T14N, R13W, Newaygo county, and from Podunk bridge between sections 9 and 10, T13N, R15W, Oceana county, downstream to US 31 in Muskegon county. The setback may be decreased 5 feet for every 1 foot of rise in bank height above a minimum of 7 feet above the ordinary high watermark to a minimum of 100 feet. Building setback shall be not less than 100 feet from the ordinary high watermark on the main stream from Lutes bridge (Baldwin road) downstream to Podunk bridge and all designated tributaries. The setback may be decreased 5 feet for every 1 foot of rise in bank height above a minimum of 7 feet above the ordinary high watermark to a minimum of 75 feet. Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.~~

~~(ii) Accessory buildings that meet the setback requirements of paragraph (i) of this subdivision.~~

~~(iii) A private boat dock.~~

~~(iv) Utility lines to service private, single family dwellings.~~

~~(v) Disposal fields and septic tanks, if all of the following provisions are complied with:~~

~~(A) The fields and tanks shall be located not less than 100 feet from the ordinary high watermark.~~

~~(B) A septic tank or absorption field shall not be located closer than 50 feet to any surface or subsurface drainage system that enters into the White river or its designated tributaries.~~

~~(C) The bottom of the pit associated with an earth privy shall not be less than 4 feet above the known high groundwater table.~~

~~(vi) Mining and extracting industries, if located not less than 300 feet from the ordinary high watermark.~~

~~(vii) Residential single family dwelling plats, if the minimum standards specified in paragraph (i) of this subdivision are met.~~

~~(viii) Home occupations.~~

~~(ix) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the existing natural land surface.~~

~~(c) The White river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. Such uses may result in intensities of development and use higher than would be anticipated under the exempt and principal uses. To ensure that such uses do not contravene the goals and objectives of the White river natural river plan and these rules such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board.~~

~~Special uses and their development standards include all of the following:~~

~~(i) Detached rental cabins, if all of the following provisions are complied with:~~

~~(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of river frontage. Clustering of rental cabins is encouraged; however, the ratio of 1 cabin per 200 feet of river frontage shall not be exceeded.~~

~~(B) Each cabin and all associated buildings, structures, or other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.~~

~~(C) Fences and greenbelts may be required by the zoning review board for rental cabins that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.~~

~~(D) Boat docks may be erected for the private use of occupants of the rental cabins and their guests. Docks shall be in compliance with the requirements of R 281.384 and both of the following provisions:~~

~~(1) Docks may be constructed at the rate of 1 dock for each permitted rental cabin.~~

~~(2) Access to a dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

~~(ii) Campgrounds, including tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, cement pads, and utility hookups, if all of the following provisions are complied with:~~

~~(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.~~

~~(B) A commercial enterprise shall not be permitted to operate in the campground within the natural river district, except that a convenience goods shopping building that is not more than 1,500 square feet may be provided. The building shall not be more than 1 story in height.~~

~~(C) Each site and all associated buildings, structures, and other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.~~

~~(D) Fences and greenbelts may be required by the zoning review board for campgrounds that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.~~

~~(E) A camping site shall not have more than 4 sites per acre. Clustering of campsites is encouraged; however, the ratio of 4 sites per acre shall not be exceeded.~~

~~(F) Boat docks may be erected for the private use of the occupants of the campsites and their guests if both of the following provisions are complied with:~~

~~(1) The total number of docks shall not be more than 1 dock for each 200 feet of river frontage.~~

~~(2) Access to the dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

~~(iii) Canoe, boat, and other watercraft liveries, if all of the following provisions are complied with:~~

~~(A) Parked vehicles and off-season canoe and boat storage areas shall not be visible from the river.~~

~~(B) Boat docks may be erected at the ratio of 1 dock per 200 feet of river frontage.~~

~~(C) Other than the rental of watercraft, other commercial enterprises shall not be permitted to operate.~~

~~(D) A rental office which is associated with the operation of the livery and which does not have more than 225 square feet may be constructed. The building shall not be more than 1 story in height.~~

~~(E) Access to the dock or docks or place of river entry from the canoe or boat rental office shall be along a single designated footpath to minimize disruption of the natural vegetation strip.~~

**R 281.388 Application and approval; procedures and standards; principal uses and special uses
Rescinded.**

~~Rule 8. (1) An application for a principal use shall be submitted and processed under the following procedures:~~

~~(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:~~

~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~

~~(ii) Two copies of a site plan that meets the requirements of R 281.386(2).~~

~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.~~

~~(b) Within 15 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.~~

~~(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.~~

~~(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.~~

~~(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

~~(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. Application for an extension shall be made before permit expiration. Any subsequent extensions shall have the written approval of the zoning review board.~~

~~(2) An application for a special use permit shall be submitted and processed under the following procedures:~~

- ~~(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:~~
 - ~~(i) A completed application form that is signed by the applicant or the applicant's representative.~~
 - ~~(ii) Eight copies of a site plan that meets the requirements of R 281.386(2).~~
 - ~~(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.~~
 - ~~(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property which is being considered for a special use.~~
- ~~(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.~~
- ~~(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:~~
 - ~~(i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.~~
 - ~~(ii) Notice shall be sent by first class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in subdivision (a)(iv) of this subrule.~~
 - ~~(iii) Notice shall also be sent to all of the following entities:~~
 - ~~(A) The natural rivers unit of the Michigan department of natural resources.~~
 - ~~(B) Local tax assessing officials.~~
 - ~~(C) Township and county clerks.~~
 - ~~(D) Local building inspectors.~~
- ~~(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.387(c), be satisfied:~~
 - ~~(i) That the purposes noted in R 281.382 are accomplished.~~
 - ~~(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.~~
 - ~~(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.~~
- ~~(e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.~~
- ~~(f) The concurring vote of a majority of the members of the zoning review board shall be required to approve a special use.~~
- ~~(g) A special use that is granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.~~
- ~~(h) If it is determined by the zoning review board that the applicant has failed to comply with any of the requirements of these rules or the approval granted, the board, after a public hearing held in accordance with the provisions of subdivision (c) of this subrule, may revoke any special use approval.~~
- ~~(i) An application for a special use which has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, new and significant facts and conditions exist which might result in favorable action upon resubmission.~~

~~(j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.~~

~~(k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.~~

R 281.389 Variances and variance hearings ~~Rescinded.~~

~~Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or in certain instances by the zoning administrator as provided in subrule (3) of this rule to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in carrying out the strict letter of these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.~~

~~(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in carrying out the strict letter of these rules as specified in subrule (1) of this rule:~~

~~(a) How substantial the variance is in relation to the zoning requirements.~~

~~(b) Whether a substantial change will be affected in the character of the area or a substantial detriment created for adjoining properties.~~

~~(c) Whether the difficulty can be overcome by some feasible method other than a variance.~~

~~(d) Whether, in view of the manner in which the difficulty arose, and considering all of the factors specified in subdivisions (a) to (c) of this subrule, the interests of justice will be served by allowing the variance.~~

~~(e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.~~

~~(f) Whether the variance may result in a material adverse effect on the environment.~~

~~(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances include the variances specified in the following provisions:~~

~~(a) Reductions in setbacks for uses on lawful lots that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps.~~

~~(b) Reductions in setbacks for uses on lawful nonconforming lots, including lots within subdivisions, that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps. Conditions may be imposed on an applicant before granting a variance. Such conditions shall be in writing and signed by the applicant before the applicant receives a variance.~~

~~(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors exist:~~

- ~~(a) The property cannot be used in a manner that is consistent with existing zoning.~~
- ~~(b) The hardship results from the application of these rules to the applicant's property.~~
- ~~(c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.~~
- ~~(d) The hardship is not the result of the applicant's own actions.~~
- ~~(e) The hardship is peculiar to the applicant's own property.~~
- ~~(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor which could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.~~
- ~~(6) The zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:~~
 - ~~(a) The use will be consistent with and in accordance with the general objectives of the White river natural river plan.~~
 - ~~(b) The use will be designed, constructed, operated, and maintained so as to be consistent with and appropriate in appearance with the existing or intended character of the natural river district and that such use will not change the essential character of the natural river district.~~
 - ~~(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or that the persons or agencies that are responsible for the establishment of the proposed use shall be able to adequately provide any such service.~~
 - ~~(d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.~~
 - ~~(e) The use will be consistent with the intent and purposes of these rules.~~
 - ~~(f) The use or the structures to be used therefor will not cause an overcrowding of the land or an undue concentration of population that will result in degradation to the river and district.~~
 - ~~(g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.~~
- ~~(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow that established for special use applications by the provisions of R 281.388(2)(c). A decision shall be made within 30 days after the hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of a majority of the members of the zoning review board shall be necessary to effect a dimensional variance in these rules, except that a concurring vote of 2/3 of the members of the board of appeals shall be necessary to grant a land use variance permitted in these rules.~~
- ~~(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.~~
- ~~(9) The effect of any variance shall be to create a nonconforming land use or structure which shall then be subject to the terms of R 281.390, which regulates continued use.~~

R 281.390 Nonconforming uses, lots, and structures Rescinded.

~~Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted under the terms of these rules or future amendments. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit the limited expansion of certain legal nonconforming uses and structures.~~

~~(2) A nonconforming (substandard) lot shall be in compliance with the minimum requirements of the dimensional requirements of these rules, except as such substandard nonconforming lot may be used pursuant to the provisions of R 281.389.~~

~~(3) Where, at the effective date of these rules or amendment of these rules, a lawful use of land exists that is made unlawful under the terms of these rules as promulgated or amended, the use may be continued if it remains otherwise lawful, subject to all of the following provisions:~~

~~(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of these rules or amendment of these rules, except in the case of campgrounds, canoe liveries, and rental cabins which do not meet the standards for special uses specified in R 281.387(c). Such lawful nonconforming uses may be expanded if the increased use meets the standards for special uses specified in R 281.387(c). Expansion of a lawful nonconforming use shall be treated as a variance pursuant to the provisions of R 281.389.~~

~~(b) The nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.~~

~~(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.~~

~~(4) Where a lawful structure exists at the effective date of these rules or amendment of these rules that is made unlawful under the terms of these rules as promulgated or amended, the structure may be continued if it remains lawful, subject to all of the following provisions:~~

~~(a) The structure shall not be enlarged or altered in a way which increases its nonconformity; however, when a single family dwelling or a structure associated with a campground, a canoe livery, or rental cabins is classified as nonconforming, alterations, repairs, and additions, including accessory buildings, may be erected if the gross floor area of all such alterations, repairs, and additions, including accessory buildings, is not more than 50% of the gross floor area of the nonconforming structure, cumulative from the date of nonconformance to the date of the request if any enlargement to a lawful nonconforming structure, to the extent possible, is in compliance with all setback and other building requirements. Expansion of a lawful, nonconforming structure shall be treated as a variance pursuant to the provisions of R 281.389.~~

~~(b) If the nonconforming structure is destroyed by any means to an extent that is more than 50% of its replacement cost, restoration of the structure shall be treated as a variance pursuant to the provisions of R 281.389. In determining whether the structure has been destroyed to an extent that is more than 50% of its replacement cost, the zoning review board or zoning administrator shall use appraised replacement costs, as determined by a qualified individual who is appointed by the zoning review board or zoning administrator, and shall compare the value of the part destroyed to the value of the total operating unit where there are several structures which are used together by the landowner as a single operating unit. The request for restoration of a~~

~~nonconforming structure which is destroyed to an extent that is more than 50% of its replacement value shall be approved if all of the following conditions exist:~~

- ~~(i) The land on which the structure is located is not subject to flooding.~~
- ~~(ii) The continued use of the nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.~~
- ~~(iii) The continued use conforms with local county health codes and is approved by the local county health department.~~
- ~~(iv) The continued use conforms with local building codes and is approved by the local building inspector.~~
- ~~(v) The restoration of a damaged structure that is approved by the zoning review board or zoning administrator shall be started within 1 year from the time of the damage.~~
- ~~(c) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.~~

R 281.391 Zoning administrator and zoning review board; appointment; duties **Rescinded.**

~~Rule 11. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.~~

~~(2) The zoning administrator shall do all of the following:~~

- ~~(a) Provide necessary forms and applications and receive and process applications.~~
- ~~(b) Determine and verify zoning compliance when the applicant's plans are found to conform with the provisions of these rules.~~
- ~~(c) Conduct site inspections to ensure compliance with these rules.~~
- ~~(d) Issue any authorized permits and certificates of zoning compliance.~~
- ~~(e) Identify and record information relative to nonconformities.~~
- ~~(f) Maintain files of applications, permits, and other relevant documents.~~
- ~~(g) Schedule meetings and hearings for, and provide assistance to, the zoning review board.~~
- ~~(h) Act on variances as permitted by the provisions of R 281.389(3).~~

~~(3) The zoning review board shall do all of the following:~~

- ~~(a) Adopt rules of procedure that govern the transaction of its business.~~
- ~~(b) Act upon requests for special use permits.~~
- ~~(c) Act on certain dimensional and land use variances pursuant to the provisions of R 281.389.~~
- ~~(d) Act on the interpretation of the official zoning map pursuant to the provisions of R 281.385(2)(g).~~

~~(4) In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following entities:~~

- ~~(a) Affected townships and counties.~~
- ~~(b) Soil conservation districts.~~
- ~~(c) Property owners' associations.~~
- ~~(d) Other interested local organizations and citizens.~~

~~(5) The commission shall request each affected township to appoint 1 person to represent its interest on matters within its jurisdiction. The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and~~

~~sedimentation control, or a related field. The commission shall request that each affected soil conservation district appoint 1 person to represent its interest on matters within its jurisdiction. Representatives who are appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.~~

~~(6) In accord with procedures specified in subrule (5) of this rule, the commission shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.~~

~~(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.~~

R 281.392 Appeals; contested cases Rescinded.

~~Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.~~

R 281.393 Violations; effect; remedies Rescinded.

~~Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates the provisions of these rules. The commission shall not waive any of its rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to the provisions of these rules is deemed invalid from the date of the authorization.~~

~~(2) In addition to all other remedies, the commission may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.~~

R 281.394 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules Rescinded.

~~Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.271 to 24.287 of the Michigan Compiled Laws, if implementation~~

~~of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.382.~~

~~(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:~~

~~(a) The county register of deeds.~~

~~(b) Township and county clerks.~~

~~(c) The local building inspector.~~

~~(d) Local soil erosion and sedimentation control enforcement agencies.~~

~~(e) The soil conservation district.~~

~~(3) Upon approval by the director, a local zoning ordinance that meets all of the requirements of Act No. 231 of the Public Acts of 1970, being S281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being S125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being S125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the White river natural river district through court action or for any other reason, these rules shall apply.~~

R 281.395 Rescission Rescinded.

~~Rule 15. R 281.71 to R 281.82 of the Michigan Administrative Code, appearing on pages 842 to 852 of the 1979 Michigan Administrative Code, are rescinded.~~

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

The Michigan Department of Natural Resources will hold a public hearing to receive comments on proposed amendments to administrative rules promulgated pursuant to 1994 PA 451, Part 305, Natural Rivers, MCL 324.30501 to 30515. The public hearing will be held Thursday, March 14, 2013, at the Michigan Historical Center, 702 W. Kalamazoo Street, Lansing, MI 48909. An informational session will start at 7:00 p.m., followed by the public hearing at 7:30 p.m.

A copy of the proposed rule amendments (ORR 2010-026 NR) may be accessed from the Michigan Office of Regulatory Reform web site at <http://www.michigan.gov/orr> and may also be obtained by contacting: Regulatory Affairs Officer, Office of Legal Services, Michigan Department of Natural Resources, PO Box 30028, Lansing, MI 48909, Telephone: 517-241-2328, FAX: 517-241-2986, or klontl@michigan.gov.

This notice of public hearing is given in accordance with Section 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, [MCL 24.241 and 24.242]. These rules will become effective immediately upon filing with the Secretary of State.

All interested persons are invited to attend and present their views. Statements should be submitted in writing for the hearing record. For those unable to attend, written statements may also be submitted to: Regulatory Affairs Officer, Office of Legal Services, Michigan Department of Natural Resources, PO Box 30028, Lansing, MI 48909, or klontl@michigan.gov. All statements must be received by 5:00 p.m. on March 15, 2013. Persons with disabilities requesting accommodations for effective participation in the meeting should call 517-373-8048, or email to mooree@michigan.gov, 7 days prior to the meeting date to request mobility, visual, hearing, or other assistance.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~ENERGY, LABOR AND ECONOMIC GROWTH~~ LICENSING
AND REGULATORY AFFAIRS**

DIRECTOR'S OFFICE

CONSTRUCTION CODE

Proposed January 31, 2013

Filed with the Secretary of State on

These rules take effect 120 days after filing with the Secretary of State

(By authority conferred on the director of the department of ~~energy, labor and economic growth~~ **licensing and regulatory affairs** by section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-204 ~~and 2011-4~~ MCL 445.2011, 445.2025, ~~and 445.2030~~)

R 408.30701, R 408.30711, R 408.30715, R 408.30717, R 408.30720, R 408.30721, R 408.30722, R 408.30723, R 408.30724, R 408.30725c, R 408.30728, R 408.30741c, R 408.30749, R 408.30753a, R 408.30754a, R 408.30754b, R 408.30757, R 408.30758, R 408.30786, R 408.30791 and R 408.30792 of the Michigan Administrative Code are amended, R 408.30763a and R 408.30757a are added to the Code as follows:

PART 7. PLUMBING CODE

AMENDMENTS AND ADDITIONS TO BASIC PLUMBING CODE

R 408.30701 Applicable code.

Rule 701. Rules governing the installation, replacement, alteration, relocation, and use of plumbing systems or plumbing materials shall be those contained in the international plumbing code, 2009~~12~~ edition, including appendices B, C, D, ~~and F, and G,~~ except for sections 102.10, 102.11, 103.4, 106.6.1, 106.6.2, 106.6.3, 107.2.5, 107.2.5.1, 107.2.5.2, 107.2.5.3, 109.2 to 109.7, 312.1.1, 602.3 to 602.3.5.1, 608.17 to 608.17.8, 708.3.2, 708.3.6, **712.3.3.1, 712.3.3.2**, 1106.6, **1301 to 1303.10** and tables 1106.2(2) and 1106.6. With the exceptions noted, the code is adopted in these rules by reference. All references to the International Building Code, International Residential Code, International Energy Conservation Code, International Electrical Code, International Mechanical Code, and International Plumbing Code mean the Michigan Building Code, Michigan Residential Code, Michigan Uniform Energy Code, Michigan Electrical Code, Michigan Mechanical Code, and Michigan Plumbing Code respectively. The code is available for inspection at the Okemos office of the Michigan department of ~~energy, labor, and economic growth~~ **licensing and regulatory affairs**, bureau of construction codes. The code may be purchased from the International Code Council, 500 New Jersey Avenue, N.W., 6th Floor, Washington, D.C. 20001, or from the Michigan Department of ~~Energy, Labor, and~~

~~Economic Growth~~**Licensing and Regulatory Affairs**, Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan 48864, at a cost as of the time of adoption of these rules of ~~\$62.00~~**\$71.00** each.

R 408.30711 Title and scope.

Rule 711. Sections 101.1 and 101.2 of the code are amended to read as follows:

101.1. Title. This part shall be known as the Michigan plumbing code and is hereinafter referred to as “the plumbing code” or “the code.” This part shall control all matters concerning the installation, replacement, alteration, relocation, and use of plumbing systems or plumbing materials as herein defined and shall apply to existing or proposed buildings and structures in the state.

101.2. Scope. The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, medical gas systems, water supplies, **water service**, and storm water and sewage disposal in **and exiting** buildings, shall comply with the requirements of the code. The design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping in connection with building heating systems shall conform to the Michigan mechanical code. The design and installation of all fire sprinkler systems and standpipe systems shall conform to the Michigan building code. Water and drainage connections to such installations shall be made in accordance with the requirements of the code.

Exception: Detached 1-and 2-family dwellings and multiple single-family dwellings (townhouses) not more than 3 stories high with separate means of egress and their accessory structures shall comply with the Michigan residential code.

R 408.30715 Permits.

Rule 715. Sections 106.4, 106.5.3, and 106.5.4 of the code are amended to read as follows:

106.4. By whom application is made.

(1) Application for a permit shall be made by a plumbing contractor licensed in accordance with 2002 PA 733, MCL 338.3511 to 338.3569 et seq.

Exceptions:

1. Water service permits.
2. Building sewer and private sewer permits.
3. Minor repair.

(2) A plumbing contractor shall do both of the following:

(a) Be active in the business of serving the public as a plumbing contractor in a county, city, village, or township in this state.

(b) Operate 1 or more branches in this state bearing the same firm name, where a licensed master plumber is in charge and has the responsibility of supervision at each branch. The names of the authorized master plumbers representing a firm shall be on record with the state plumbing board.

(3) To become a plumbing contractor, an applicant shall file an application on a form furnished by the state plumbing board and file with the board at Okemos, Michigan. An incomplete application will be returned to the applicant.

106.5.3. Expiration. Each permit issued by the code official under the provisions of the code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180

days. Before such work may be recommenced, **the permit shall be reinstated if the code has not changed. If the code has changed and the work was not started,** a new permit shall be first obtained for such work, provided no changes have been made or will be made in the original construction document for such work and provided further that such suspension or abandonment has not exceeded 1 year.

106.5.4. Extensions. Any permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once.

R 408.30717 Duties and powers of code official.

Rule 717. Sections 104.1 ~~and 104.4~~ of the code ~~is~~**are** amended to read as follows:

104.1 General. The code official shall enforce all of the provisions of the code and shall act on any question relative to the installation, alteration, repair, maintenance, or operation of all plumbing systems, devices, and equipment except as specifically provided for by statutory requirements or as provided for in sections 104.3 to 104.87.

~~104.4. Right of entry. In the discharge of duties, the code official may enter any building, structure, or premises in the jurisdiction to enforce the provisions of the act and the code.~~

R 408.30719 Stop work orders.

Rule 719. Section 108.5 of the code is amended to read as follows:

108.5. Stop work orders. ~~Upon notice from the enforcing agency of work on any plumbing system that is being done contrary to the provisions of the code or in a dangerous or unsafe manner, the work shall immediately cease.~~ Notice shall be in accordance with the act. A person who is served with a stop work order, except for work that the person is directed to perform to remove a violation or unsafe condition is subject to the penalty provisions prescribed by the act.

R 408.30720 Means of appeal.

Rule 720. Section 109.1 of the code is amended to read as follows:

109.1 Means of appeal. An interested person ~~has the right to~~**may** appeal a decision of the enforcing agency to the board of appeals in accordance with the act. An application for appeal shall be based on a claim that the true intent of the code or the rules governing construction have been incorrectly interpreted, the provisions of the code do not apply, or an equal or better form of construction is proposed. The decision of a local board of appeals may be appealed to the construction code commission in accordance with the act and time frames.

R 408.30721 Required tests.

Rule 721. Section 312.1 of the code is amended and section 312.3 is added **to read as follows:**

312.1. Required tests. The permit holder shall make the applicable tests prescribed in sections 312.2 to 312.10.2 to determine compliance with the code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for testing. The equipment, material, power, and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in this rule. All plumbing system

piping shall be tested with either water or, for piping systems other than plastic, by air. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests. The code official shall require the removal of any cleanouts if necessary to ascertain if the pressure has reached all parts of the system.

Exception: Drainage and vent low pressure air tests for plastic piping systems shall be acceptable as prescribed in section 312.3 of the code.

312.3 Drainage and vent air test. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5 kPa) or sufficient to balance a 10-inch (254 mm) column of mercury. This pressure shall be held for a test period of not less than 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made before to the beginning of the test period.

R 408.30722 Separate facilities.

Rule 722. Section 403.2 of the code is amended to read as follows:

403.2. Separate facilities. Where plumbing fixtures are required, separate facilities shall be provided for each sex.

Exceptions:

1. Separate facilities shall not be required for private facilities.
2. ~~Separate employee facilities shall not be required in occupancies in which 15 or fewer people are employed.~~ **Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or fewer.**
3. **Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 50 or fewer.**

R 408.30723 Distance of trap from vent.

Rule 723. Section 9096.1 of the code is amended to read as follows:

9096.1 Distance of trap from vent. Each fixture trap shall have a protecting vent located so that the slope and the developed length in the fixture drain from the trap weir to the vent fitting are within the requirements in table 9096.1.

R 408.30724 Piping.

Rule 724. Section 11143.1.4 of the code is amended to read as follows:

11143.1.4. Discharge piping shall meet the requirements of section 1102.2, 1102.3, or 1102.4 and shall include a gate valve and a full flow check valve. Pipe and fittings shall be the same size as, or larger than, pump discharge tapping.

R 408.30725c Venting of fixture drains.

Rule 725c. Section 9096.2 of the code is amended to read as follows:

9096.2. Venting of fixture drains. The vent for a fixture drain, except where serving a fixture with integral traps, such as water closets, shall connect above the weir of the fixture trap being vented. The total slope shall not exceed the diameter of the fixture drain.

R 408.30728 Sewer depth.

Rule 728. Section 305.46.1 of the code is amended to read as follows:

305.46.1. Sewer depth. A building sewer that connects to a private disposal system shall be a minimum of 8 inches (203 mm) to the top of the pipe below finished grade at the point of septic

tank connection. Building sewers shall be installed a minimum of 42 inches (1067 mm) below grade.

Exception: When permitted by the code official.

R 408.30741c Connections to automatic fire sprinkler systems and standpipe systems.

Rule 741c. Section 608.16.4 of the code is amended to read as follows:

608.16.4. Connections to automatic fire sprinkler systems and standpipe systems. ~~The potable water supply to automatic fire sprinkler systems and standpipe systems shall be protected against backflow by a double check valve assembly or a reduced pressure principle backflow preventer.~~ **The potable water supply to automatic fire sprinkler and standpipe systems shall be protected against backflow by a double check backflow prevention assembly, a double check fire protection backflow prevention assembly, or a reduced pressure principle fire protection backflow prevention assembly.**

Exception: Isolation of the water distribution system is not required for deluge, preaction, or dry pipe systems.

R 408.30749 Special equipment; water supply protection.

Rule 749. Section 608.3.1 of the code is amended to read as follows:

608.3.1. Special equipment; water supply protection. The water supply for hospital fixtures shall be protected against backflow with a reduced pressure principle backflow prevention ~~er~~ **assembly**, an atmospheric or spill-proof ~~resistant~~ vacuum breaker **assembly**, or an air gap. Vacuum breakers for bedpan washer hoses, autopsy tables, and hose connections in health care or laboratory areas shall not be located less than 6 feet (1829 mm) above the floor.

R 408.30753a Roof extensions.

Rule 753a. Section ~~903-4-1~~ of the code is amended to read as follows:

~~903-4-1.~~ Roof extension. All open vent pipes that extend through a roof shall be terminated at least 1 foot (305 mm) above the roof, except that if a roof is to be used for any purpose other than weather protection, then the vent extensions shall be run not less than 7 feet (2134 mm) above the roof.

R 408.30754a Frost Closure.

Rule 754a. Section ~~903-4-2~~ of the code is amended to read as follows:

Section ~~903-4-2.~~ Frost Closure. To prevent frost closure, every vent extension through a roof shall be a minimum of 3 inches (76 mm) in diameter. Any increase in the size of the vent shall be made inside the building a minimum of 1 foot (305 mm) below the roof or inside the wall.

R 408.30754b Extensions outside a structure.

Rule 754b. Section ~~903-4-7~~ of the code is amended to read as follows:

~~903-4-7.~~ Extensions outside a structure. Vent pipes installed on the exterior of the structure shall be protected against freezing by insulation or heat, or both.

R 408.30757 Horizontal drains within building and building sewers.

Rule 757. Section **708.3 and 708.3.1.** of the code is amended to read as follows:

708.3 Where required. Cleanouts shall be located in accordance with sections 708.3.1, 708.3.3 to 708.3.5.

708.3.1. Horizontal drains within buildings and building sewers. All horizontal drains within buildings and building sewers shall be provided with cleanouts located not more than 100 feet (30 480 mm) apart.

For underground piping that is more than 10 inches in diameter, manholes shall be provided and located at every major change of direction, grade, elevation, or size of pipe or at intervals of not more than 400 feet (12 1920 mm). Metal covers shall be provided for the manholes and shall be of sufficient weight to meet local traffic and loading conditions.

Within buildings, manhole covers shall be gastight and the manhole shall be vented with not less than a 4-inch (102 mm) pipe.

R 408.30757a Discharge pipe and fittings.

Rule 757a. Section 712.3.3 of the code is added to read as follows:

712.3.3. Discharge pipe and fittings. Discharge piping and fittings shall be constructed of approved materials.

R 408.30758 Minimum number of fixtures.

Rule 758. Sections 403.1 and 403.3.1 and Table 403.1 of the code are amended to read as follows:

403.1. Minimum number of fixtures. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number shown in Table 403.1. Types of occupancies not shown in Table 403.1 shall be considered individually by the code official. The number of occupants shall be determined in accordance with the Michigan building code. Occupancy classification shall be determined in accordance with the Michigan building code.

Exceptions:

1. The actual number of occupants determined by a supporting affidavit from the owner or agency.
2. Hand washing sinks in food service establishments shall be provided in accordance with regulation no. 553, food establishments, R 285.553.1 to R 285.553.26 of the Michigan department of agriculture.
3. Toilet facilities for public swimming pools shall be provided in accordance with public swimming pools, R 325.2111 to R 325.2199 of the Michigan department of environmental quality.
4. Toilet facilities for child care center, day care center, and nursery school facilities shall be provided in accordance with child day care licensing – child care centers, R 400.5101 to R 400.5940 of the Michigan department of human services.
5. Toilet facilities for children's camps shall be provided in accordance with children's and adult foster care camps, R 400.11101 to R 400.11319 of the Michigan department of human services.

403.3.1. Access. The route to the public toilet facilities required by section 403.3 shall not pass through kitchens, storage rooms, or closets. Access to the required facilities shall be from within the building. All routes shall comply with the accessibility requirements of the Michigan building code. The public shall have access to the required toilet facilities at all times that the building is occupied.

TABLE 403.1
MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a
 (See Sections 403.21.1 and 403.3.2)

NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (URINALS SEE SECTION 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e,f} (SEE SECTION 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1	Assembly	A-1 ^d	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200			1 per 500	1 service sink
		A-2 ^d	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75			1 per 500	1 service sink
			Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200			1 per 500	1 service sink
		A-3 ^d	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and	1 per 125	1 per 65	1 per 200			1 per 500	1 service sink

	gymnasiums							
	Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750			1 per 1,000	1 service sink
	Places of worship and other religious services.	1 per 150	1 per 75	1 per 200			1 per 1,000	1 service sink
A-4	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150		1 per 1,000	1 service sink
A-5	Stadiums, amusement parks, bleachers, and grandstands for outdoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 120 for the remainder exceeding 1,520	1 per 200	1 per 150		1 per 1,000	1 service sink

		A-5	Outdoor educational and municipal venues no larger than 3,000 spectators	1 per 125	1 per 65	1 per 200	1 per 150		1 per 1,000	1 service sink
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial, and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80			1 per 100	1 service sink ^g
3	Educational	E	Educational facilities	1 per 50		1 per 50			1 per 100	1 service sink
4	Factory and industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly, or processing of products or materials	1 per 100		1 per 100		(see Section 411)	1 per 400	1 service sink

5	Institutional	I-1	Residential care	1 per 10	1 per 10	1 per 8	1 per 100	1 service sink
		I-2	Hospitals, ambulatory nursing home patients, care recipient	1 per room c	1 per room c	1 per 15	1 per 100	1 service sink per floor
			Employees, other than residential care ^b	1 per 25	1 per 35		1 per 100	
			Visitors, other than residential care	1 per 75	1 per 100		1 per 500	
		I-3	Prisons ^b	1 per cell	1 per cell	1 per 15	1 per 100	1 service sink
			Reformatories, detention centers, and correctional centers ^b	1 per 15	1 per 15	1 per 15	1 per 100	1 service sink
			Employees ^b	1 per 25	1 per 35	-	1 per 100	-
		I-4	Adult day care and child care	1 per 15	1 per 15	1	1 per 100	1 service sink

NO.	CLASSIFICATION			WATER CLOSETS (URINALS SEE SECTION 419.2)	LAVATORIES	BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e,f} (SEE SECTION

		OCCUPANCY	DESCRIPTION	MALE	FEMALE	MALE	FEMALE		410.1)	OTHER
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets, and shopping centers	1 per 500		1 per 750		-	1 per 1000	1 service sink ^g
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit		1 service sink
		R-2	Dormitories, fraternities, sororities, and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-2	Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	-	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
		R-3	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink

		R-3	One- and two-family dwellings	1 per dwelling unit	1 per dwelling unit	1 per dwelling unit	-	1 kitchen sink per dwelling unit; 1 automatic clothes washer per dwelling unit
		R-4	Congregate living facilities with 16 or fewer persons	1 per 10	1 per 10	1 per 8	1 per 100	1 service sink
8	Storage ^{sh}	S-1 S-2	Structures for the storage of goods, warehouses, storehouse, and freight depots. Low and Moderate Hazard	1 per 100	1 per 100	See Section 411	1 per 1,000	1 service sink

- a. The fixtures shown are based on 1 fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the *International Building Code*.
- b. Toilet facilities for employees shall be separate from facilities for inmates or patients.
- c. A single-occupant toilet room with 1 water closet and one lavatory serving not more than 2 adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient room and with provisions for privacy.
- d. The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e. The minimum number of required drinking fountains shall comply with Table 403.1 and Chapter 11 of the International Building Code.
- f. Drinking fountains are not required for an occupant load of 15 or fewer.
- g. ~~Structures not designed for occupants or as an employee's regular working area, are not required to have toilet facilities.~~ **For business and mercantile occupancies with an occupant load of 15 or fewer, service sinks shall not be required.**

h. Structures not designed for occupants or as an employee's regular working area, are not required to have toilet facilities.

R 408.30763a Tempered water for public hand-washing facilities.

Rule 763a. Section 416.5 is added to the code to read as follows:

416.5. Tempered water for public hand-washing facilities. Tempered water shall be delivered from lavatories and group wash fixtures located in public toilet facilities in accordance with section 607.1. Tempered water shall be delivered through an approved water-temperature limiting device that conforms to ASSE 1070 or CSA B125.3.

R 408.30786 Sizing of secondary drains.

Rule 786. Section 11087.3 of the code is amended to read as follows:

11087.3. Sizing of secondary drains. Secondary, or emergency, roof drain systems shall be sized in accordance with section 1106 based on the rainfall rate for which the primary system is sized in tables 1106.2 and 1106.3. Scuppers shall be sized to prevent the depth of ponding water from exceeding that for which the roof was designed as determined by section 1101.7. Scuppers shall not have an opening dimension of less than 4 inches (102 mm). The flow through the primary system shall not be considered when sizing the secondary roof drain system.

R 408.30791 Definitions.

Rule 791. Section 202 of the code is amended to amend the definition of code official and add the definitions of the act and plumbing contractor.

“Act” means 1972 PA 230, MCL 125.1501 and known as the Stille-DeRossett-Hale single state construction code act.

“Code official” means the person appointed and employed by a governmental subdivision charged with the administration and enforcement of the state code or codes and registered in accordance with the requirements of 1986 PA 54, MCL 338.2301 to 338.2313.

"Plumbing contractor" means a person who is licensed in accordance with 2002 PA 733, MCL 338.3511 to 338.3569.

“Plumbing systems” includes the water distribution pipes; plumbing fixtures and traps; water-treating or water-using equipment; soil, waste, and vent pipes; and building drains; in addition to their respective connections, devices and appurtenances with a structure or premises; and water services, sanitary and storm sewers serving such structure or premises.

R 408.30792 ~~Plumbing contractor.~~ Food utensils, dishes, pots and pans sinks.

Rule 792. Section 802.1.8 of the code is amended to read as follows:~~(1) To obtain plumbing permits, an applicant shall do all of the following:~~

~~–(a) Be a plumbing contractor in this state.~~

~~–(b) Be active in the business of serving the public as a plumbing contractor in a county, city, village, or township in this state.~~

~~–(c) Operate 1 or more branches in this state bearing the same firm name, when a licensed master plumber is in charge and has the responsibility of supervision at each branch. The names of the authorized master plumbers representing a firm shall be on record with the state plumbing board.~~

~~–(2) To become a plumbing contractor, an application shall be made on a form furnished by the state plumbing board and filed with the board at Okemos, Michigan. An incomplete application will be returned to the applicant.~~

802.1.8. Food utensils, dishes, pots and pans sinks. Sinks used for the washing, rinsing, or sanitizing of utensils, dishes, pots, pans, or service ware where used in the preparation, serving, or eating of food shall discharge indirectly through an air gap or an air break to the drainage system.

Exception: When required, a hydromechanical grease interceptor connected to the washing sink or wash compartment shall be directly connected to the drainage system.

NOTICE OF PUBLIC HEARING

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
NOTICE OF PUBLIC HEARING

Michigan Part 7 - Plumbing Code Rules (ORR# 2011-039 LR)
Survey and Remonumentation Rules (ORR# 2012-008 LR)

The Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, will hold a public hearing on Thursday, March 28, 2013, at 9:00 a.m. in Conference Room 3, 2501 Woodlake Circle, Okemos, MI 48864. The Part 7 Plumbing Code rules are proposed to be effective 120 days after filing with the Secretary of State. The Survey and Remonumentation rules are proposed to take immediate effect after filing with the Secretary of State.

The public hearing is being held to receive public comments on the proposed amendments to the administrative rules noted above. Testimony will be taken for each rule set in the order the rules are listed above. Individuals who are not present during testimony for a particular rule set will be provided an opportunity to testify after final testimony on the Survey and Remonumentation rules.

The proposed revisions to Part 7 Plumbing Code rules will adopt the 2012 edition of the International Plumbing Code with amendments, deletions, and additions deemed necessary for use in Michigan. The hearing is being conducted by the Department under Section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-4 and 2011-4, MCL 445.2011, 445.2025 and 445.2030.

The Survey and Remonumentation rules were promulgated in 1992 and have not been revised since they were first promulgated. The current rules address only certain aspects of the process for administering the fund grant program, but no other provisions of the State Survey and Remonumentation Act. The hearing is being conducted by the Department under the authority of Section 17 of 1990 PA 345, and Reorganization Order Nos. 1996-2, 1997-12, 2003-1, 2008-20, 2011-4, MCL 445.2001, MCL 445.2002, MCL 54.277, MCL 445.2011, MCL 445.2025 and MCL 445.2030.

The proposed rules will be published in the March 1, 2013, *Michigan Register*. Copies of the proposed Michigan amendments to the Michigan Plumbing Code rules and the Survey and Remonumentation rules may be obtained for a fee of \$3.00 for each rule set by submitting a check or money order made payable to the State of Michigan, to the Bureau at the address below. You may download a free copy of the proposed amendments by visiting the Bureau's website at www.michigan.gov/bcc. The amendments are located under "What's New" on the front page of the website.

Oral or written comments may be presented in person at the hearing on March 28, 2013, or submitted in writing by mail, email, or facsimile no later than 5:00 p.m., March 28, 2013, to the address stated below. If your presentation at the public hearing is in written form, please provide a copy to the Rules Analyst, at the conclusion of your testimony at the hearing.

**Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Office of Administrative Services
P.O. Box 30254
Lansing, MI 48909
Telephone (517) 241-6312
Facsimile (517) 241-9570
matsumotos@michigan.gov**

The meeting site and parking are accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional services (such as materials in alternative format) in order to participate in the meeting should call Hillary Cushman at (517) 335-2972 (voice) at least 14 days prior to the hearing. LARA is an equal opportunity employer/program.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES LICENSING AND
REGULATORY AFFAIRS**

**BUREAU OF CORPORATIONS, SECURITIES AND LAND DEVELOPMENT BUREAU OF
CONSTRUCTION CODES**

SURVEY AND REMONUMENTATION COMMISSION

Proposed Draft January 31, 2013

GENERAL RULES

Filed with the Secretary of State on
These rules take effect immediately after filing with the Secretary of State

(By authority conferred on the department of consumer and industry services **licensing and regulatory affairs** by section 17 of Act No. 345 of the Public Acts of 1990, **and Reorganization Order Nos. 1996-2, 1997-12, 2003-1, 2008-20, 2011-4, MCL 445.2001, MCL 445.2002, MCL 54.277, MCL 445.2011, MCL 445.2025 and MCL 445.2030**)

R 54.201, R 54.202, R 54.203, R 54.204, R 54.205, R 54.206, R 54.207, R 54.208, R 54.209, R 54.210, of the Michigan Administrative Code are amended and R 54.211, R 54.212 and R 54.213 are added to the Code as follows:

R 54.201 Definitions.

Rule 1. (1) As used in these rules:

- ~~–(a) “Act” means, Act No. 345 of the Public Acts of 1990, being S 54.261 et seq. of the Michigan Compiled Laws.~~
- ~~–(b) “Applicant” means a county or counties that apply for a grant pursuant to the act.~~
- ~~–(c) “Application” means a grant application on a form that is prescribed by the commission.~~
- ~~–(d) “Commission” means the state survey and remonumentation commission that is created pursuant to the act.~~
- ~~–(e) “Grant agreement” means the annual contract between the state and an applicant that includes the work program to be undertaken.~~
- ~~–(f) “County grant administrator” means a person who is appointed by the county board of commissioners as the individual who is responsible for completing and submitting the annual application for survey and monumentation grant to the state of Michigan and administering the approved annual grants. The county grant administrator’s duties shall be set forth in the commission approved county plan.~~
- ~~–(g) “County representative” means the person who shall perform any duties that are assigned by law and other duties as described in the commission approved county plan and who is either of the following entities, as applicable:~~
- ~~–(i) The county surveyor, whether elected or appointed, pursuant to the provisions of section 95 of chapter 14 of the Revised Statutes of 1846, as amended, being S 54.95 of the Michigan Compiled Laws.~~

- ~~–(ii) The licensed surveyor who is appointed by the county board of commissioners if the county does not have a county surveyor.~~
- ~~–(h) “Recipient” means an applicant that receives a grant award pursuant to the act.~~
- ~~–(2) Terms defined in the act have the same meanings when used in these rules.~~
- (a) **“Act” means the state survey and remonumentation act, 1990 PA 345, MCL 54.261 to 54.279.**
- (b) **“Applicant” means a county or multiple counties that apply for a grant pursuant to the act.**
- (c) **“Application” means an annual grant application pursuant to section 13 of the act.**
- (d) **“Annual grant agreement” means the contract between the department and an applicant.**
- (e) **“Corner code” means the designation given a corner based on its location within the surveyed township as established on the form pursuant to R 339.17403(8).**
- (f) **“Department” means the department of licensing and regulatory affairs.**
- (g) **“Grant administrator” means a person who is appointed by the county board of commissioners.**
- (h) **“Grantee” means an applicant that receives a grant pursuant to the act.**
- (i) **“Land corner recordation certificate” (LCRC) means the document prepared and filed pursuant to the corner recordation act, 1970 PA 74, MCL 54.201 to 54.210d, and the form prescribed in R 339.17403(7).**
- (j) **“Monument” means a marker that occupies the position of a corner and that possesses, or is made to possess, a magnetic field, or is set pursuant to the corner recordation act, 1970 PA 74, MCL 54.201 to 54.210d.**
- (k) **“Monumentation” means the process by which a public land survey corner or property controlling corner position was established and monumented in an original survey or resurvey by the United States government.**
- (l) **“Peer review group” means the advisory panel of surveyors who review and provide advice on corners presented by surveyors.**
- (m) **“Public land survey corner” means any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government.**
- (n) **“Remonumentation” means all land surveying activities performed by a surveyor to perpetuate a remonumentation corner pursuant to the act.**
- (o) **“Remonumentation corner” means a public land survey corner or a property controlling corner established and monumented in an original survey or resurvey by the United States government, being perpetuated pursuant to the act and these rules.**
- (p) **“Remonumentation surveyor” means the licensed professional surveyor who is awarded a contract, by a grantee, to perform remonumentation of remonumentation corners.**
- (q) **“Standard monument” means any monument defined in a county plan.**
- (r) **“Surveyor” means a professional surveyor licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.**
- (2) **Terms defined in the act have the same meanings when used in these rules.**

R 54.202 Commission meetings. Forms.

Rule 2. ~~For commission meetings, a majority of the members of the commission constitutes a quorum. All business is transacted by motion. To approve a motion, there shall be support by a majority vote of the members who are present at the meeting, including the chairperson. An agenda shall be prepared and made available to the public at a time in advance of, and at, the meeting. The annual grant application and all reports shall be made on forms prescribed by the department.~~

R 54.203 Right of appeal.

~~Rule 3. A person, firm, corporation, public body, or agency that is aggrieved by a fund grant decision of the commission or the executive director of the commission may request, in writing, that the commission hold a hearing pursuant to the provisions of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws.~~

An applicant or grantee who believes that he or she is aggrieved by a fund grant decision of the department may request, in writing, that the department hold a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

R 54.204 ~~Fund grant eligibility requirements.~~ **County plan.**

~~Rule 4. To be eligible to receive a grant from the fund, a county shall comply with the requirement of section 14 of the act and shall appoint a county grant administrator. The county shall also appoint a representative, if the county has abolished the position of county surveyor in accordance with law. The county plan shall include all of the following:~~

(a) A remonumentation plan that identifies and itemizes all remonumentation corners within the borders established by the county plan, including the borders, by county, surveyed township and range, and corner code.

(b) A survey history for each county and copies of records that identify United States government surveys that were conducted outside the instructions for deputy surveyors issued by the surveyors general in 1815, 1833, and 1850.

(c) Define each county's standard monuments to be used when it is necessary to set a new monument pursuant to the act and these rules.

(d) Outline the specific requirements when remonumentation work is completed by a surveyor for both of the following:

(i) Setting a standard monument,

(ii) Accepting an existing monument.

(e) Stipulate that copies of all remonumentation records required to be maintained and filed pursuant to sections 8(2)(b) and 8(2)(c) of the act shall be provided to the department upon request.

(f) Provide for a perpetual monument maintenance plan pursuant to the act, which shall initiate the year following determination by the department that the remonumentation plan in subdivision (a) of this rule has been completed, pursuant to section 14(2) of the act.

(g) Only be amended with the approval of both the board of county commissioners and the department.

R 54.205 ~~Fund grant application process.~~ **Grant administrator.**

~~Rule 5. (1) The county representative shall provide information for a fund grant application to the county grant administrator as set forth in the commission approved county plan.~~

~~–(2) The county grant administrator shall provide all information that is required on the application forms and sign, date, and attest that all statements on the application forms are true, complete, and accurate to the best of the administrator's knowledge.~~

~~–(3) All applications shall be submitted to the commission's executive director, who shall review the applications based on the criteria listed in subrule (4) of this rule and forward the applications to the commission with his or her analysis and recommendations.~~

~~–(4) The commission's application review shall be based on the following criteria:~~

~~–(a) The eligibility of the applicant.~~

~~–(b) The grant application is for funds to carry out a portion of the commission approved county plan.~~

~~–(5) The commission may solicit a legal or technical review of an application from other sources. (1)~~

The grant administrator shall do all of the following:

- (a) Manage a grantee's obligations of the annual grant agreement and be the point of contact.**
- (b) Be responsible for the application, all reports, and documentation required by the act, these rules, and the annual grant agreement.**
- (c) Oversee the county representative and all contractual obligations to fulfill the annual grant agreement.**
- (2) If the grant administrator is also the county representative, that individual and that individual's organization shall not enter into any remonumentation surveyor contract within the borders established by the county plan.**

R 54.206 Award of fund grants. County representative.

Rule 6. ~~(1) A fund grant shall be awarded to an applicant if approved by the commission and if all of the following criteria have been met:~~

- ~~–(a) The application has met all of the eligibility requirements specified in R 54.204.~~
- ~~–(b) Sufficient funds are available.~~
- ~~–(c) The applicant has been presented, and has accepted, a final grant agreement.~~
- ~~–(2) The commission shall require, as part of the approval of the grant, that an applicant comply with all necessary federal, state, or local laws and ordinances, if applicable.~~
- ~~–(3) A grant shall be discontinued to accordance with the provisions of section 15 of the act if the commission determines that a project is not progressing as specified in the grant agreement.~~
- ~~–(4) Any official action of the commission on any grant shall be by an affirmative vote of a majority of the commission members.~~
- ~~–(5) The commission shall award grants consistent with the provisions of section 12 of the act.~~
- ~~–(6) The commission shall reject any application if there is a lack of supportive data or if the commission determines that the application is not in compliance with the objectives of the act.~~

(1) A county representative of each county shall be the county representative for all surveying projects approved by or initiated through the department pursuant to the act. When necessary, a deputy county surveyor may be appointed pursuant to revised statutes of 1846, county surveyors, or an alternative county representative may be appointed by the county board of commissioners to serve in the absence of the county representative.

(2) A county representative shall do all of the following:

- (a) Assist the applicant and grantee by providing technical and professional expertise.**
- (b) Assist the applicant and grantee in the development of and monitoring the progress of their county plan pursuant to the act and these rules.**
- (c) Coordinate the perpetuation of remonumentation corners along shared county borders.**
- (d) Facilitate the inclusion of any remonumentation corners that were not included in the annual grant agreement.**

(e) If a peer review group has been established, schedule and chair the meetings pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and give notice to any surveyor who has a position in conflict with a corner position scheduled for peer review.

(f) At the discretion of the grantee, provide an indication of acceptance on the LCRC that the corner record has been reviewed by the peer review group and accepted by the grantee to be filed with the state pursuant to the act, these rules, and the annual grant agreement. The indication of acceptance shall be placed on the face of the LCRC before its filing with a county's register of deeds. If a conclusive decision cannot be made on a remonumentation corner, the surveyor or

grantee may request an independent review be completed before the surveyor renders a final decision.

(3) If the county representative is also the grant administrator, that individual and that individual's organization shall not enter into any remonumentation surveyor contract within the borders established by the county plan.

R 54.207 ~~Contract requirements; notice to subcontractors of use of state funds.~~ **Peer review group.**

Rule 7. ~~(1) All contracts that are related to the work program for which a fund grant is awarded shall be in compliance with the grant agreement that is entered into between the recipient and the state of Michigan and shall be in compliance with all applicable state laws and rules.~~

~~–(2) The recipient of a fund grant shall inform all subcontractors that state funds shall be used to assist in the work program and that relevant state requirements shall apply.~~ **(1) A grantee may establish a peer review group of surveyors to review corners presented before filing.**

(2) The peer review group shall consist of a minimum of 3 members, which includes the chair.

(3) The peer review group shall include 1 person from any firm or company.

(4) All meetings shall be held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

R 54.208 ~~Disbursement of fund grant monies.~~ **Application and grant award.**

Rule 8. ~~Funds shall not be disbursed before the execution of the grant agreement and all funds shall be dispersed as set forth in the grant agreement.~~ **(1) An applicant shall comply with the requirements of section 14 of the act and these rules by appointing a grant administrator.**

(2) The department may approve or deny applications based on either the following criteria:

(a) Corners to be completed or maintained.

(b) Estimated expenditures.

(3) The department may require the applicant to provide additional information for the department to make a determination required by the act and these rules.

(4) The department may solicit legal or technical review of an application from other sources.

(5) Approved applications shall be forwarded to the director of the department for execution of an annual grant agreement if sufficient funds are available.

R 54.209 ~~Establishment by recipient of a accounting system and internal controls.~~ **Disbursement of annual grant.**

Rule 9. ~~A recipient is required to establish and maintain a system of accounting and internal controls recognized by the state treasurer, local audit division, as acceptable county accounting practices. The department shall disburse an annual grant pursuant to section 12 of the act and as follows:~~

(a) Forty percent of the annual grant amount upon receipt of a signed annual grant agreement.

(b) Forty-five percent of the annual grant amount upon receipt and approval of a progress report and supporting documentation. The total of the start-up payment and progress payment is limited to 85% of the total annual grant.

(c) Final payment upon receipt and approval of a completion report and supporting documentation.

R 54.210 ~~Retention of financial records.~~ **Revocation of grant.**

Rule 10. ~~A recipient shall retain all financial records, supporting documents, statistical records, and all other records that are pertinent to a grant for a period of 3 years, with the following qualifications:~~

- ~~–(a) If any litigation or audit is started before the expiration of the 3-year period, the records shall be retained for 7 years from the date of the audit report or shall be retained until all litigation, claims, or audit findings that involve the records have been resolved, whichever is later.~~
- ~~–(b) Records for nonexpendable property that is acquired with the grant funds shall be retained for 7 years after final disposition of the property.~~
- ~~–(c) When records are transferred or maintained by the commission, the 7-year retention requirement is not applicable to a recipient.~~
- ~~–(d) The retention period starts from the date of acceptance of the final performance report for the grant.~~ **A grant may be revoked in whole or in part pursuant to the act, these rules, and the annual grant agreement.**

R 54.211 Establishment by grantee of accounting system and internal controls.

Rule 11. For all grant funds received and dispersed, a grantee shall establish and maintain a separate system of accounts subject to accounting and internal controls recognized by the state treasurer, local audit division, as acceptable county accounting practices.

R 54.212 Audit; retention of financial records.

Rule 12. (1) The department may audit the grantee to assure compliance with the requirements of the grant agreement.

(2) The grantee shall retain all financial records, supporting documents, statistical records, and all other records that are pertinent to a grant for a period of 5 years, unless any litigation or departmental audit is started before the expiration of the 5-year period. Records shall be retained for 7 years from the date of the audit report or until all litigation, claims, or audit findings that involve the records have been resolved, whichever is later.

R 54.213 Inconsistent or conflicting provisions.

Rule 13. Any provision of an annual grant agreement or county plan which is inconsistent or in conflict with the act and the corner recordation act, 1970 PA 74, MCL 54.201 to 54.210d, or these rules, is superseded to the extent of the inconsistency and conflict.

NOTICE OF PUBLIC HEARING

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
NOTICE OF PUBLIC HEARING

Michigan Part 7 - Plumbing Code Rules (ORR# 2011-039 LR)
Survey and Remonumentation Rules (ORR# 2012-008 LR)

The Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, will hold a public hearing on Thursday, March 28, 2013, at 9:00 a.m. in Conference Room 3, 2501 Woodlake Circle, Okemos, MI 48864. The Part 7 Plumbing Code rules are proposed to be effective 120 days after filing with the Secretary of State. The Survey and Remonumentation rules are proposed to take immediate effect after filing with the Secretary of State.

The public hearing is being held to receive public comments on the proposed amendments to the administrative rules noted above. Testimony will be taken for each rule set in the order the rules are listed above. Individuals who are not present during testimony for a particular rule set will be provided an opportunity to testify after final testimony on the Survey and Remonumentation rules.

The proposed revisions to Part 7 Plumbing Code rules will adopt the 2012 edition of the International Plumbing Code with amendments, deletions, and additions deemed necessary for use in Michigan. The hearing is being conducted by the Department under Section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-4 and 2011-4, MCL 445.2011, 445.2025 and 445.2030.

The Survey and Remonumentation rules were promulgated in 1992 and have not been revised since they were first promulgated. The current rules address only certain aspects of the process for administering the fund grant program, but no other provisions of the State Survey and Remonumentation Act. The hearing is being conducted by the Department under the authority of Section 17 of 1990 PA 345, and Reorganization Order Nos. 1996-2, 1997-12, 2003-1, 2008-20, 2011-4, MCL 445.2001, MCL 445.2002, MCL 54.277, MCL 445.2011, MCL 445.2025 and MCL 445.2030.

The proposed rules will be published in the March 1, 2013, *Michigan Register*. Copies of the proposed Michigan amendments to the Michigan Plumbing Code rules and the Survey and Remonumentation rules may be obtained for a fee of \$3.00 for each rule set by submitting a check or money order made payable to the State of Michigan, to the Bureau at the address below. You may download a free copy of the proposed amendments by visiting the Bureau's website at www.michigan.gov/bcc. The amendments are located under "What's New" on the front page of the website.

Oral or written comments may be presented in person at the hearing on March 28, 2013, or submitted in writing by mail, email, or facsimile no later than 5:00 p.m., March 28, 2013, to the address stated below. If your presentation at the public hearing is in written form, please provide a copy to the Rules Analyst, at the conclusion of your testimony at the hearing.

**Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Office of Administrative Services
P.O. Box 30254
Lansing, MI 48909
Telephone (517) 241-6312
Facsimile (517) 241-9570
matsumotos@michigan.gov**

The meeting site and parking are accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional services (such as materials in alternative format) in order to participate in the meeting should call Hillary Cushman at (517) 335-2972 (voice) at least 14 days prior to the hearing. LARA is an equal opportunity employer/program.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF TREASURY

COMMISSIONER OF THE BUREAU OF STATE LOTTERY

LOTTERY

Proposed September 14, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the commissioner of Bureau of State Lottery by section 11 of 1972 PA 239, MCL 432.11)

R 432.2, R 432.6 of the Michigan Administrative Code are amended as follows:

R 432.2 Employees ~~and contractors~~.

Rule 2. (1) None of the individuals referred to in section 31 of the act may have any interest, direct or indirect, in dealing in the lottery or in the ownership or leasing of any property or premises used by or for the lottery.

(2) An individual or organization or employees of an organization under contract with the bureau is not eligible to win any prize in any lottery operated by the bureau during the period of the contract if the individual, organization, or employee has access to any of the following which is not open to the general public:

- (a) Bureau data.
- (b) Books and records.
- (c) Electronic data processing programs.
- (d) Systems designs.
- (e) Other information.

R 432.6 Conditions of licensing.

Rule 6. (1) Upon issuance of a license, the agent agrees that he or she shall do all of the following:

(a) Be bound by and comply with the act, these rules, or instructions and directives of the commissioner or bureau.

(b) Make tickets available for sale to the public during normal business hours.

(c) Refrain from purchasing any winning ticket from its original purchaser or from subsequent purchasers.

(d) Maintain authorized displays, notions, drop boxes, and other material used in conjunction with sales in accordance with instructions issued by the bureau.

(e) Act in a fiduciary capacity with respect to all tickets accepted from the bureau or its authorized distributors until payment has been made.

(f) Maintain current and accurate records of all operations in conjunction with sales in conformity with rules, instructions, and directives of the bureau. The agent shall make the records available to representatives of the bureau upon request for inspection and audit.

(g) Ensure that a person under 18 years of age does not sell tickets or pay winning tickets.

(h) Ensure that tickets will not be sold at any price greater than the price stated on the ticket.

(i) Hold the bureau and the state harmless from any liability arising in connection with sales.

(j) Remit funds due for lottery sales and other amounts owing to the bureau at the time and in the manner specified by the bureau.

(2) Subrule (1)(b) of this rule shall not apply to retailers who are considered “exempt from taxation” under Section 501(c) of the Internal Revenue Code, 26 U.S.C. §1 et seq., but only to the extent such retailers are restricted from making lottery sales to the general public as a condition of maintaining their status as “exempt from taxation.”

NOTICE OF PUBLIC HEARING

BUREAU OF STATE LOTTERY

NOTICE OF PUBLIC HEARING

LOTTERY RULES

ADMINISTRATIVE RULES 2012-081 TY

The Bureau of State Lottery will hold a public hearing at the following time and place to receive comments by interested persons on proposed changes to certain Lottery Rules:

Date: March 20, 2013

Time: 10:30 a.m. - 11:30 a.m.

Location: Bureau of State Lottery
101 E. Hillsdale
Lansing, Michigan 48909
First Floor Conference Room A

The hearing will be held to receive public comments on proposed changes. The proposed amendments will correct a heading and will exclude from the requirement to sell lottery products to the general public retailers who are considered “exempt from taxation”. This is intended to apply to fraternal organizations who by their rules and bylaws are only allowed to sell tickets to members of the organization.

These rules are promulgated by authority conferred on the commissioner of Bureau of State Lottery by section 11 of 1972 PA 239, MCL 432.11. These rules will take effect immediately upon filing with the Secretary of State.

Written comments on the rules may be submitted to the Bureau of State Lottery, Attn: Natalia Tiemann, 101 E. Hillsdale; Lansing MI 48909 or by facsimile to 517-241-7506 or electronically to tiemannn@michigan.gov by 5:00 p.m. on March 20, 2013.

The rules are published on the Michigan Government web site at <http://www.michigan.gov/orr> and in the March 1, 2013 issue of the Michigan Register. Copies of the draft rules may also be obtained by mail or electronic request at the addresses above.

Persons with disabilities requiring additional accommodations for effective participation in the hearing should telephone Natalia Tiemann at 517-335-4856 or at tiemannn@michigan.gov at least one week in advance of the hearing.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~LABOR AND ECONOMIC GROWTH~~ LICENSING AND REGULATORY
AFFAIRS**

DIRECTOR'S OFFICE

ACCOUNTING – GENERAL RULES

Proposed Draft February 5, 2013

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of ~~energy, labor and economic growth~~ **licensing and regulatory affairs** by sections ~~205 308~~ and 721 of 1980 PA 299, MCL 339.308~~205~~ and 339.721; **and on the board of accountancy by section 308 of 1980 PA 299, MCL 339.308**; and by Executive Reorganization Order No. 1996-2, ~~and~~ 2003-1, **2011-4, 2011-5 and 2011-6**, MCL 445.2001, ~~and~~ MCL 445.2011, **MCL 445.2030, MCL 445.2031, and MCL 445.2032.**)

R 338.5101, R 338.5102, R 338.5104, R 338.5110, R 338.5110a, R 338.5111, R 338.5112, R 338.5115, R 338.5140, R 338.5210, R 338.5217, R 338.5218, R 338.5230, R 338.5240, R 338.5255, R 338.5401, R 338.5405, R 338.5435, R 338.5460, R 338.5465, R 338.5475, R 338.5501, and R 338.5503 of the Michigan Administrative Code are amended, and R 338.5116, R 338.5117, and R 338.5139 are added, and R 338.5103, R 338.5105, R 338.5114, R 338.5120, R 338.145, R 338.5260, R 338.5270, R 338.5446, and R 338.5480 are rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 338.5101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Act" means 1980 PA 299, MCL 339.101 to 339.2919, and known as the occupational code.

(b) "Audit" or "examination" means an examination applying generally accepted auditing standards, including any procedure undertaken to verify or test the reasonableness of financial information with a view of expressing an opinion or commenting on the fairness of the presentation.

(c) "Attest services" means an audit, review, or agreed upon procedures engagement performed in accordance with applicable professional standards pursuant to R 338.5101(~~k~~)(l), R 338.5101(~~h~~)(m), R 338.5102, and R 338.5103.

(d) "Board" means the Michigan state board of accountancy.

(e) **"Certified public accountant" or "CPA" means a person holding a certificate of certified public accountant granted by the department, or an individual with practice privileges.**

~~(f)(e)~~ "Client" means the person or persons or entity that retains **an individual licensee, a firm licensee, individual with practice privileges, or an out-of-state firm**, for the performance of professional services.

~~(g)(f)~~ "Continuing education period" means all or part of a year beginning July 1 and ending June 30.

~~(g)~~ "CPA" or "certified public accountant" means a person holding a certificate of certified public accountant granted by the department.

(h) "Disclose" means to provide a written communication from a CPA or a CPA firm informing the client, prior to making a recommendation or referral, that the CPA or CPA firm will receive a commission, referral fee, or contingency fee from a third party for recommendations or referrals of products and/or services.

(i) "Enterprise" means a person, persons, or entity for which **an individual licensee, a firm licensee, an individual with practice privileges, or an out-of state firm** performs professional services.

(j) "Exam window" means the time in each calendar quarter in which the uniform CPA examination is offered. There are 4 exam windows in each calendar year, the first 2 months of each

calendar quarter: January 1 to February 28 (or 29), April 1 to May 31, July 1 to August 31, and October 1 to November 30.

~~(j)(k)~~ "Financial statements" means statements and related footnotes that show financial position, results

of operations, and cash flows on the basis of generally accepted accounting principles or another comprehensive basis of accounting. The term does not include incidental financial data included in management advisory services reports to support recommendations to a client and does not include tax returns and supporting schedules of tax returns.

~~(k)(l)~~ "Generally accepted accounting principles" means accounting principles of professional conduct, **promulgated by the applicable nationally or internationally recognized professional standard setting organization**, related to individual accounting engagements.

~~(k)(m)~~ "Generally accepted auditing standards" means the standards of professional conduct, **promulgated by the applicable nationally or internationally recognized professional standard setting organization**, related to individual audit engagements.

(n) "Individual with practice privileges" means **an individual who practices in this state pursuant to MCL 339.727a.**

(o) "Licensee" means **the holder of an individual license under MCL 339.727 or the holder of a firm licensed under MCL 339.728.**

(p) "Out-of-state firm" means **a firm that is permitted to provide certain services and use the title "CPA firm" without obtaining a Michigan firm license under MCL 339.728 under the conditions in MCL 339.728(5) and (6).**

~~(m)(q)~~ "Professional engagement" means an agreement between a client and **an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm** relative to the performance of professional services.

~~(n)(r)~~ "Professional services" means any services performed or offered to be performed by an **individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm** for a client in the course of the practice of public accounting, pursuant to MCL 339.720.

~~(o)(s)~~ "Qualifying hours" means continuing education hours that comply with part 2 **3** of these rules.

~~(p)(t)~~ "State" means the 50 states of the United States of America, Washington, D.C., Puerto Rico, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(2) Terms defined in the act have the same meanings when used in these rules.

R 338.5102 Standards of professional practice adopted by reference.

Rule 102. ~~(1)~~ The following standards specified in this rule are adopted in these rules by reference and are available **for inspection and distribution to the public**, at a cost as of the **time of** adoption of these rules, **at the Department of Licensing and Regulatory Affairs, Bureau of Commercial Services, 2501 Woodlake Circle, Okemos, MI 48864**. Copies of the standards may be obtained from the appropriate agency, organization, or association listed below. The standards adopted are as follows:

(a) **"American Institute of Certified Public Accountants (AICPA) professional standards, as of June 1, 2011. as of June 1, 2006."** The publication **may be viewed for no charge at <http://www.aicpa.org/Research/Standards/Pages/default.aspx>** and is available from the American Institute of Certified Public Accountants (AICPA ~~aicpa~~) at 1-888-777-7077, 220 Leigh Farm Road, Durham, NC 27702-8110, **or by calling 1-888-777-7077**. Cost: **~~\$155.00~~ \$149.00** for members; **~~\$193.75~~ \$148.75** for non-members.

(b) ~~The accounting principles defined by the AICPA in AU Section 411. AU Section 411 is available for download at no charge at www.pcaobus.org.~~

(b)(c) ~~The auditing standards issued by the Public Company Accounting Oversight Board (PCAOB-pcaob) in the publication entitled "PCAOB Standards and Related Rules," as of January, 2011. December 2006.~~ The publication is available for download at no charge at www.pcaob.org. A copy of the publication **may be viewed for no charge at <http://pcaobus.org/Pages/default.aspx>** and may be purchased from the AICPA pursuant to subdivision (a) of this subrule. Cost: **~~\$125.00~~ \$85.50** for members; **~~\$156.25~~ \$106** for nonmembers.

(c)(d) ~~The auditing standards published issued by the Government Accountability Accounting Office in the publication entitled "Government Auditing Standards," as of December, 2011 effective January 2007.~~ The publication **may be downloaded and viewed download at for no charge at <http://www.gao.gov/assets/590/587281.pdf>** and is available ~~for from the Government Accountability Office at U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000, or by calling 1-866-512-1800. Cost: \$16.00. <http://www.gao.gov/govaud/ybk01.htm>.~~

(d)(e) ~~The auditing standards published issued by the International Auditing and Assurance Standards Board (IAASB-iaasb) in the publication entitled "2012 Handbook of International Quality Control, Auditing, Review, Other Assurance, and Related Services Pronouncements" as of July 31, 2012.~~ The publication **may be viewed for no charge at <http://www.ifac.org/auditing-assurance/publications-resources>** and is available from the International Federation of Accountants (ifac) at 529 5th Avenue, 6th Floor, New York, New York 10017; or by calling 1-212-286-9344. Cost: **~~\$160.00~~**. ~~The standards are available for download at no charge at www.iaasb.org.~~

(e) The accounting standards issued by the Financial Accounting Standards Board (fasb) in the publication entitled "FASB Accounting Standards Codification" as of October 31, 2011. The publication **may be viewed for no charge at <https://asc.fasb.org/>** and is available from the fasb at 401 Merritt 7, PO Box 5116, Norwalk, CT 06856-5116, or by calling 1-800-748-0659. Cost: **\$215.00**.

(f) The accounting standards issued by the Governmental Accounting Standards Board (gasb), in the publication entitled "GASB Codification" as of June 30, 2011. The publication is available for purchase at www.gasb.org/store. Cost: **\$100.00**.

(g) The accounting standards issued by the International Accounting Standards Board (iasb) in the publication entitled "IFRS 2012 (Red Book)" as of January 1, 2012, may be viewed for no charge from the International Financial Reporting Standards (ifrs) Foundation at <http://www.ifrs.org/IFRSs/Pages/IFRS.aspx> and is available for purchase at <http://shop.ifrs.org>. Cost: **\$94.16**.

~~–(2) The accounting, auditing and peer review standards adopted by reference in subdivisions (a), (d), and (f) of this subrule are available for inspection at the Department of Labor and Economic Growth, Bureau of Commercial Services, 2501 Woodlake Circle, Okemos, Michigan 48864-5955, 517-241-9228.~~

~~–(3) Copies of the standards adopted in subdivisions (a) to (f) of this subrule may be obtained from the department at the cost specified in subdivision (a) to (f) of this subrule, plus \$20.00 for shipping and handling.~~

~~–(4) A downloaded copy of the standards adopted in subdivisions (b) to (e) of this subrule may be obtained from the department for a cost of 51.6 cents per image.~~

R 338.5103 Rescinded. Performance of compilation and review services.

~~Rule 103. Pursuant to the definition of the practice of public accounting in section 720 of the act, in the performance of compilation and review services, a licensee shall adhere to the standards set forth in the Statements on Standards for Accounting and Review Services." The following standards are adopted by reference:~~

~~–(a) The "Statements on Standards for Accounting and Review Services" are provided in the publication "AICPA Professional Standards as of June 1, 2006," and adopted by reference pursuant to R 338.5102(1)(a).~~

~~–(b) The "Statements on Standards for Accounting and Review Services" are available for purchase and inspection pursuant to R 338.5102(1)(a), R 338.5102(3) and R 338.5102(4).~~

R 338.5104 Retention of documents

Rule 104. (1) With the exception of documents related to a peer review, all **individual licensees, firm licensees, individuals with practice privileges, and out-of-state firms** registered firms and licensed individuals shall retain sufficient documentation, in any form, with regard to services performed while engaged in the practice of public accounting, as well as evidence obtained and conclusions reached, for a period of not less than 5 years.

(2) Documents related to a peer review shall be retained in accordance with the AICPA's **professional standards and** retention policies pursuant to R 338.5102(1)(~~f~~)(a) or until final adjudication of a complaint related to a peer review, whichever is later.

(3) Documentation shall be consistent with that required by professional standards or promulgated by the applicable nationally **or internationally** recognized professional standards setting organizations.

R 338.5105 Rescinded. Board meetings.

~~–Rule 105. Board meetings are conducted in accordance with 1976 PA 267, MCL 15.261 et seq., and are open to the public.~~

R 338.5110 Uniform CPA exam Examination generally.

Rule 110. (1) ~~A candidate shall take all parts of the examination for which the candidate has not been granted credit or where the candidate has lost credit under R 338.5111(4).~~

(1)(2) The department or its designee may permit a candidate to sit for the **examination exam** in another state if the candidate complies with all administrative rules. [I highlighted this to show you that when you change a word, you have to delete the current word and replace it with the new word. You can't just strike part of a word. This also applies to the change from "a" to "an" throughout the rules.]

(2)(3) The department may excuse a candidate from an **examination exam** due to the sickness of the candidate or a member of the candidate's immediate family if substantiated by a doctor's certificate. A candidate may also be excused if the candidate provides the department with proof of a death in the

candidate's immediate family, temporary military service, or another good reason **acceptable to the department**. A candidate shall make a request to be excused within 90 days of the date of the ~~examination exam~~. If excused, an applicant's ~~examination exam~~ shall not count as a failure to write the ~~examination exam~~.

~~(3)(4)~~ The department shall grant a candidate credit for ~~examination exam~~ grades of 75 or higher earned in another state if the candidate meets the educational requirements to sit for the ~~examination exam~~ and if the board determines the ~~examination exam~~ was equivalent to the ~~examination given exam~~ **provided** by the department.

PART 2. LICENSURE REQUIREMENTS

R 338.5110a ~~Computerized Uniform CPA exam procedures. Examination Procedures.~~

Rule 110a. ~~Upon implementation of a computer-based examination, the.~~ **The** following procedures shall apply:

(a) Applicants may take the required ~~examination exam~~ sections individually and in any order.

(b) Applicants shall pass all sections of the ~~examination exam~~ within **the exam windows that fall within** a rolling 18-month period beginning on the date that the first section is passed. If all sections are not passed within **the exam windows that fall within** the rolling 18-month period, then credit for any section passed outside the 18-month period shall expire and must be retaken.

(c) **The department may extend an exam window due to the sickness of the candidate or a member of the candidate's immediate family if substantiated by a doctor's certificate. An exam window may also be extended if the candidate provides the department with proof of a death in the candidate's immediate family, temporary military service, or another good reason acceptable to the department. A candidate shall make a request to be excused within 90 days of the date of the exam. If extended, an applicant's exam shall not count as a failure to write the exam.**

~~(e)(d)~~ Applicants shall not retake ~~failed any~~ sections of the ~~examination exam~~ within the same ~~examination exam~~ window.

~~(d)~~ Applicants who earned conditional credit on the paper and pencil examination shall be given conditional credit for the corresponding sections of the computer-based examination, as follows:

~~Pencil & Paper Examination Computer-Based Examination Auditing
Auditing & Attestation Financial Accounting & Reporting Financial Accounting & Reporting
Accounting & Reporting Regulation Business Law & Professional Business
Environment & Concepts Responsibilities~~

~~(e)~~ Candidates who have earned conditional credit on the paper and pencil examination shall be given a transition period to pass all remaining test sections not previously passed.

~~(i)~~ The transition period is 1 of the following, whichever is exhausted first:

~~(A)~~ The time period represented by the number of remaining examination administrations under the paper and pencil examination, multiplied by 6 months.

~~(B)~~ The number of examination administrations that candidates, conditioned under the paper and pencil examination, have left at the launch of the computer-based examination to pass all remaining test sections. Each administration of the paper and pencil examination is equal to 1 3-month window in which any or all parts of the computerized examination may be taken 1 time.

~~(ii)~~ Candidates who do not pass all remaining examination sections during the transition period shall lose credit for sections passed under the paper and pencil examination.

~~–(f) For purposes of this rule, "opportunities" means the 3-month periods in which 1 or all parts of the examination may be taken 1 time.~~

~~–(g) Until implementation of a computerized examination, candidates may continue to utilize the paper and pencil version of the examination, and the provisions of R 338.5110, R 338.5111 and R 338.5112 shall apply.~~

R 338.5111 Examination Exam scores.

Rule 111. (1) The minimum passing grade for each subject is 75.

~~(2) The department shall consider as conditioned a candidate who in 1 sitting receives a passing grade in 2 subjects and who receives a grade of not less than 50 in each of the remaining subjects and shall grant credit for subjects passed. A reexamination candidate who is conditioned may add to the conditioned status by receiving a passing grade in another subject and receiving a grade of not less than 50 in all subjects not passed.~~

~~(3) The department shall grant credit for the subjects passed to a candidate who receives a passing grade in any 3 subjects in 1 sitting.~~

~~(4) A candidate shall lose credit for subjects passed under subrules (2) and (3) of this rule if the candidate does not receive a passing grade in the remaining subject or subjects at 1 or more of the next 6 consecutive examinations unless excused under R 338.5110(3).~~

~~(2)(5) The department shall notify each candidate, in writing only, of his or her grades within a reasonable time, but not later than 120 days after completion of the examination exam.~~

~~–(6) The department shall issue a certificate of examination to an applicant who receives credit in all examination subjects.~~

~~(3)(7) A candidate shall appeal the grading of any paper to the department, in writing, within 30 days after grades are mailed released.~~

R 338.5112 Failure to write examination exam during specified period; reapplication required.

Rule 112. A candidate who fails to write an examination exam for a period of 6 successive examinations exam windows shall apply as a new applicant, unless excused under R 338.5110(2)(3) or **R 338.5110a(c).**

R 338.5114 Rescinded. Credit hour requirements for concentration in accounting.

~~–Rule 114. (1) The department shall consider a person as having met the concentration in accounting requirements of section 725(1)(e) of 1980 PA 299, MCL 339.725, if the person provides proof of having completed 150 semester hours of academic credit at an accredited college or university, including either of the following:~~

~~–(a) A master's degree in accounting or business administration that includes not fewer than 12 semester hours of graduate level accounting courses. The 12 semester hours of accounting courses shall not include tax or information systems courses.~~

~~–(b) An academic program consisting of both of the following:~~

~~–(i) Thirty semester hours of accounting subjects, including not more than 6 semester hours of taxation. Additional semester hours in accounting subjects may be applied toward the general business subject requirements of subdivision (b) (ii) and (iii) of this subrule.~~

~~–(ii) Thirty nine additional semester hours with a minimum of 3 semester hours, but not more than 12 semester hours, in not fewer than 5 of the following areas:~~

~~–(A) Business law.~~

~~–(B) Economics.~~

~~–(C) Ethics.~~

- ~~–(D) Finance.~~
- ~~–(E) Management.~~
- ~~–(F) Marketing.~~
- ~~–(G) Taxation.~~
- ~~–(H) Statistics.~~
- ~~–(I) Business policy.~~
- ~~–(2) Credit may be earned only once for an accounting or general business topic. If the department determines that 2 courses are duplicative, then only the semester hours of 1 course shall be counted toward the semester hour requirement.~~

R 338.5115 **Exam; Certificate of certified public accountant; qualifying experience educational requirement; adoption of accreditation standards by reference; board recognition of educational institutions; requirements for concentration in accounting.**

~~Rule 115. (1) As provided in section 725(6) of the act, the department shall regard a person as having completed not less than 2 years as an instructor of accounting in subjects above the elementary level if the applicant has completed not less than 4 academic semesters of an academic appointment in accounting at an institution recognized by the department. An instructor who has an academic appointment in accounting shall teach, as the principal instructor, not less than 6 credit hours per semester of accounting subjects above the elementary level.~~

~~(1)(2)~~ As provided in section 725(2)(5) and (6) of the act, the department shall regard a person as having completed a curriculum **required for a baccalaureate degree with a concentration** in public accounting upon completion of an academic program consisting of not less than ~~150~~ **120** semester hours **including those delineated in subrule (3) of this rule as follows: at an educational institution pursuant to subrule (2) of this rule.**

~~–Semester Hours~~

~~–Accounting subjects:~~

~~–Shall include study in each of the following:~~

~~–financial accounting; managerial accounting, including cost accounting; auditing; United States federal taxation; accounting systems and controls; and governmental/fund accounting—39.~~

~~–General business subjects:~~

~~–Shall include study in each of the following:~~

~~–economics, finance, business law, and statistics—36.~~

~~–Unspecified subjects—75.~~

~~–TOTAL—150.~~

(2) For the purpose of identifying the educational institutions that meet the educational standards required by the board to satisfy section 725 of the act, all of the following provisions apply:

(a) The board adopts the criteria for accreditation of the North Central Association of Colleges and Schools, Commission on Institutions of Higher Education, including in the publication entitled “Handbook of Accreditation, Third Edition.” Accreditation by the north central association of colleges and schools or an affiliated association is prima facie proof of having met

the criteria. Copies of the criteria are available for purchase from the North Central Association of Colleges and Schools, The Higher Learning Commission, 30 N. La Salle Street, Suite 2400, Chicago, IL 60602-2501, at a cost of \$33.50 as of the time of adoption of these rules and may be downloaded for no charge at www.ncahlc.org/.

(b) The department may recognize an educational institution which demonstrates that the curricula required for its degrees are the equivalent of the curricula required for degrees granted by institutions accredited under subdivision (a) of this subrule.

(3) A concentration in accounting shall include all the following accounting and general business subjects, for which credit is transferable to any baccalaureate degree-granting institution recognized by the department:

(a) Auditing: 3 semester hours.

(b) General business subjects: 24 semester hours.

(c) Twenty one semester hours of accounting principles that shall include study in each of the following areas:

(i) Financial accounting and accounting theory.

(ii) Managerial accounting, including cost accounting.

(iii) Accounting systems and controls.

(iv) United States federal taxation.

(v) Governmental/fund accounting.

~~(3) As provided in section 725(5) and (6) of the act, the equivalent of a graduate degree in accounting includes a master's of business administration degree with a concentration in accounting consisting of 12 semester hours of graduate level accounting courses.~~

~~(4) An applicant applying for a CPA certificate on the basis of an advanced degree and 1 year of qualifying experience shall have obtained not less than 2,000 hours of qualifying experience within a period of not less than 1 calendar year nor more than 5 calendar years. An applicant applying for a CPA certificate on the basis of 2 years of qualifying experience shall have obtained not less than 4,000 hours of qualifying experience within a period of not less than 2 calendar years nor more than 5 calendar years.~~

~~(5) The department shall grant full credit for qualifying experience earned during a college or university internship.~~

R 338.5116 Certificate of certified public accountant; credit hour requirements for concentration in accounting.

Rule 116. (1) The department shall consider a person as having met the concentration in accounting requirements of section 725(1)(e) of 1980 PA 299, MCL 339.725, if the person provides proof of having completed 150 semester hours of academic credit at an accredited college or university, including either of the following:

(a) A master's degree in accounting or a master's degree in business administration that includes not fewer than 12 semester hours of graduate level accounting courses. The 12 semester hours of accounting courses shall not include tax or information systems courses.

(b) An academic program consisting of both of the following:

(i) Thirty semester hours of accounting subjects, including not more than 6 semester hours of taxation. Additional semester hours in accounting subjects may be applied toward the general business subject requirements of subdivision (b) (ii) of this subrule.

(ii) Thirty-nine additional semester hours with a minimum of 3 semester hours, but not more than 12 semester hours, in not fewer than 5 of the following areas:

(A) Business law.

- (B) Economics.
- (C) Ethics.
- (D) Finance.
- (E) Management.
- (F) Marketing.
- (G) Taxation.
- (H) Statistics.
- (I) Business policy.

(2) A person may earn credit only once for an accounting or general business topic. If the department determines that 2 courses are duplicative, then only the semester hours of 1 course shall be counted toward the semester hour requirement.

(3) Academic credit earned during an internship shall apply toward the total 150 semester hour requirement; however, shall not apply to the required 30 semester hours of accounting subjects or the required 39 semester hours in subrule (1)(b)(ii) of this rule.

R 338.5117 Certificate of certified public accountant; qualifying experience requirement.

Rule 117. (1) An applicant applying for a CPA certificate shall have obtained not less than 2,000 hours of qualifying experience within a period of not less than 1 calendar year nor more than 5 calendar years.

(2) The department shall grant full credit for qualifying experience earned during a college or university internship, including the internships for which educational credit is provided.

(3) The department shall regard instruction as qualifying experience, if the applicant has completed not less than 4 academic semesters of an academic appointment in accounting at an institution recognized by the department. An instructor who has an academic appointment in accounting shall teach, as the principal instructor, not less than 6 credit hours per semester of accounting subjects above the elementary level.

R 338.5120 ~~Rescinded. Person administratively responsible for firm required to be licensed.~~

~~Rule 120. A person who is administratively responsible for a public accounting firm practicing in Michigan shall be a licensed Michigan-certified public accountant.~~

R 338.5139 Practice privilege.

Rule 139. An individual shall not, as a condition of qualification for the practice privilege granted under MCL 339.727a, be required to comply with the continuing professional education requirements of this state provided that the individual is in compliance with the continuing professional education requirements of the state of the individual's principal place of business.

R 338.5140 Permit for temporary practice.

Rule 140. (1) An accountant **who does not qualify for practice privileges under MCL 339.727a nor hold a license to practice public accounting in this state** shall obtain a permit and pay the appropriate fee for each engagement in this state by ~~this an~~ accountant, or on behalf of his or her firm, who does not hold a license to practice public accountancy in this state. The applicant shall hold a license as a certified public accountant of another state, or hold a title from a foreign country, recognized by the board as comparable to the Michigan certificate of certified public accountant and shall be practicing public accountancy under the certificate or license in the grantor state or country.

(2) If approved by the department, the term of the permit shall begin on the date approved unless otherwise specified and shall be for a specified period, but shall not be for more than 1 year.

(3) The temporary practice shall be performed by, or under the direct supervision of, a licensed certified public accountant, **an individual with practice privileges under to MCL 339.727a** or the holder of a title from a foreign country who is recognized under subrule (1) of this rule.

(4) A temporary permit is not required if the work relates to a Michigan-based division or subsidiary of an entity, if the parent entity is located in another state or foreign country and is a client of the certified public accountant, firm, or foreign accountant, and if a separate presentation of financial statements with a related independent auditor's report or review report, or an attestation regarding the reliability of a representation or estimate is not made for the division or subsidiary on a stand-alone basis.

(5) A temporary permit is not required if the work is to be performed through the applicant's employer who presently holds the license to practice public accountancy in this state.

(6) A temporary permit issued to an accountant shall also constitute a temporary permit for his or her firm, if his or her firm is not presently licensed in this state.

(7) If another ~~state or foreign country~~ **jurisdiction** charges a fee for providing an affidavit or certificate of professional standing for determining whether the applicant is qualified to practice public accountancy temporarily in this state, then the applicant shall pay the fee.

R 338.5145 Rescinded. ~~Adoption of accreditation standards by reference; board recognition of educational institutions; requirements for concentration in accounting.~~

Rule 145. ~~(1) For the purpose of identifying the educational institutions that meet the educational standards required by the board to satisfy section 725 of the act, both all of the following provisions apply:~~

~~–(a) The board adopts the criteria for accreditation of the north central association of colleges and schools, commission on institutions of higher education, included in the publication entitled "Handbook of Accreditation, Third Edition." Accreditation by the north central association of colleges and schools or an affiliated association is prima facie proof of having met the criteria. Copies of the criteria are available for purchase from the North Central Association of College and Schools, The Higher Learning Commission, 30 N. La Salle Street, Suite 2400, Chicago IL 60602-2504, at a cost of \$33.50 as of the time of adoption of these rules.~~

~~–(b) The criteria may be downloaded for no charge at www.ncaahlc.org/. A downloaded copy may be purchased from the department pursuant to R 338.5102(4).~~

~~–(c) The criteria are available for inspection and purchase from the Department of Labor and Economic Growth, Bureau of Commercial Services, 2501 Woodlake Circle, Okemos, Michigan 48864 at a cost of \$33.50 as of the time of adoption of these rules.~~

~~–(d) The department may recognize an educational institution which demonstrates that the curricula required for its degrees are the equivalent of the curricula required for degrees granted by institutions accredited under subdivision (a) of this subrule.~~

~~–(2) A concentration in accounting shall include the following accounting and general business subjects, for which credit is transferable to any baccalaureate degree granting institution recognized by the department: Auditing 3 semester hours Accounting principles 21 semester hours General business subjects 24 semester hours The accounting principles shall include study in each of the following areas:~~

~~–(a) Financial accounting and accounting theory.~~

~~–(b) Managerial accounting, including cost accounting.~~

~~–(c) Accounting systems and controls~~

~~–(d) United States federal taxation.~~

~~–(e) Governmental/fund accounting.~~

PART 3. CONTINUING EDUCATION

R 338.5210 Continuing education requirements; reporting; qualifying hours.

Rule 210. (1) A licensee shall earn qualifying hours annually within the continuing education period and shall **attest to compliance** ~~report the hours, and may be required to report the courses,~~ biennially on a form prescribed by the department.

(2) A licensure applicant or licensee is solely responsible for documenting the evidence to support the fulfillment of the requirements under this part and shall retain evidence to support fulfillment of the continuing education requirements for a period of 4 years after submission of the report under subrule (1) of this rule.

(3) A licensee is subject to audit under this rule and may be required to submit the documentation as described by subrule (2) of this rule upon request of the department.

~~(4)(2)~~ A licensee shall earn not fewer than 8 of the minimum qualifying hours annually in auditing and accounting, and not fewer than 2 of the minimum qualifying hours annually in ethics. The study of ethics may include, but is not limited to, the study of the code of conduct, ethical reasoning, ethics enforcement, non-attest services, and independence.

~~(5)(3)~~ The form and content of continuing education courses shall be acceptable to the department.

R 338.5217 Instruction.

Rule 217. Each hour of classroom work as a teacher, instructor, speaker, or lecturer at an educational institution, or each hour spent conducting a group program under R 338.5216 as a teacher, instructor, lecturer, speaker, or seminar discussion leader, equals 3 continuing education hours for the initial session of the course or program taught. **The licensee shall not be granted** ~~department shall not give~~ additional credit for subsequent repetitious sessions during the same continuing education period. The credit shall not exceed 50% of the minimum qualifying hours in any continuing education period.

R 338.5218 Self-study programs.

Rule 218. (1) A licensure applicant or licensee shall receive continuing education credit for an individual self-study program that is in compliance with all of the following requirements:

(a) The program consists of an educational course designed for self-study and requires evidence of satisfactory completion.

(b) The subject matter of the program is listed in R 338.5255.

(c) Written certification of completion and a program outline and recommended qualifying hours are issued by the sponsor upon request.

(d) The sponsor maintains written records of the program outline and completion of the program for a period of 4 years.

(2) Credit for a self-study program shall not be more than 50% of the minimum qualifying hours in any continuing education period **unless the department has pre-approved a waiver based on physical limitations precluding live attendance.**

(3) A licensee shall not receive credit for repeating a self-study program or course or another self-study program or course that has substantially the same content during a continuing education period.

R 338.5230 **Relicensure;** ~~Entry or reentry into practice of public accounting;~~ continuing education requirements.

Rule 230. (1) The department shall issue a license to ~~an a licensure applicant applying for relicensure to for reciprocity or reentering the practice of public accounting~~ **upon submission of** ~~upon receiving~~ proof from the applicant that he or she has completed 40 hours of continuing education credit within the

12 months immediately preceding the date of application. Eight of the 40 hours shall be in auditing or accounting, or both, and 2 of the 40 hours shall be in ethics.

(2) The department shall prorate, from the month following the date of licensure, the qualifying hours required for the continuing education period in which the license is granted.

(3) The department shall deem a person granted an original certificate of certified public accountant to have complied with all continuing education requirements through the continuing education period ending June 30 of the year in which the certificate was granted.

R 338.5240 Carryover of continuing education hours.

Rule 240. (1) Except as provided in subrule (2) of this rule, any hours in excess of the required 40 hours for each continuing education period may be carried over to the following continuing education period up to a maximum of 40 hours.

(2) A licensee applicant or licensee may not apply more than 8 hours of accounting carryover or auditing carryover, or both, to meet the minimum accounting requirements or auditing requirements, or both, of the following continuing education period.

(3) A licensee applicant or licensee may not apply more than 2 continuing education hours of ethics as carryover to meet the minimum ethics requirements of the following continuing education period.

R 338.5255 Qualifying continuing education subjects.

Rule 255. Subjects qualifying for continuing education include ~~each of~~ the following:

(a) Accounting.

(b) Auditing.

(c) Management advisory services.

(d) Information technology.

(e) Mathematics, statistics, probability, and quantitative application to business.

(f) Economics.

(g) Finance.

(h) Business law.

(i) Business management.

(j) Professional ethics for certified public accountants.

(k) Taxation.

(l) Financial advisory services.

(m) Business valuations.

(n) Any other subjects which contribute to the professional competency of a licensee and for which the responsibility for compliance rests solely with the licensure applicant or licensee.

R 338.5260 **Rescinded.** ~~Evidence of completion of continuing education requirements.~~

~~Rule 260. A licensure applicant or licensee is solely responsible for documenting the evidence to support the fulfillment of the requirements under this part.~~

R 338.5270 **Rescinded.** ~~Retention of evidence supporting fulfillment of continuing education requirements.~~

~~Rule 270. A licensure applicant or licensee shall retain evidence to support fulfillment of the continuing education requirements for a period of 4 years subsequent to submission of the report under R 338.5210.~~

PART 4. PROFESSIONAL CONDUCT

R 338.5401 ~~Licensee responsibility~~ **Responsibility** for conduct of **supervised** persons ~~under licensee's supervision.~~

Rule 401. (1) The department may hold ~~a~~ **an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm** responsible for compliance with the rules of professional conduct by all persons under ~~the licensee's~~ **their** supervision. If the licensee is a firm, then the department shall hold the firm, **and shall hold an out-of-state firm**, responsible for compliance with the rules of professional conduct by all of its employees.

(2) **An individual licensee, including a firm licensee, and individual with practice privileges, or an out-of-state firm**, shall not permit others to carry out on its behalf acts which, if carried out by the **individual licensee, firm licensee, individual with practice privileges, or out-of-state firm**, would constitute a violation of the rules of professional conduct.

R 338.5405 Independence rule; adoption by reference.

Rule 405. ~~(4)~~ **An individual licensee, including a firm licensee, an individual with practice privileges, or an out-of-state firm** may express an opinion on financial statements of an enterprise only if the **individual licensee, firm licensee, individual with practice privileges, or out-of-state firm** is independent from the enterprise. For the purpose of defining the impairment of independence, the board adopts ~~the AICPA rule on independence contained in~~ **by reference the AICPA professional standards, as of June 1, 2011, pursuant to R 338.5102(1)(a). "Code of Professional Conduct."**

~~–(a) The code is available for download at no charge on the AICPA website:~~

~~<http://www.aicpa.org/about/code/sec100.htm>.~~

~~–(b) The code is available for purchase and inspection in the publication "AICPA Professional Standards as of June 1, 2006," pursuant to R 338.5102(1)(a), R 338.5102(3) and R 338.5102(4).~~

R 338.5435 Licensee competence required to undertake professional engagement.

Rule 435. **An individual licensee, including a firm licensee, an individual with practice privileges, or an out-of-state firm** shall not undertake a professional engagement that the **individual licensee, firm licensee, individual with practice privileges, or out-of-state firm** cannot competently complete.

R 338.5446 **Rescinded.** ~~Compliance with other professional standards.~~

~~–Rule 446. A licensee in the practice of public accounting shall comply with the professional standards applicable to the practice of public accounting.~~

R 338.5460 Contingent fees.

Rule 460. (1) As provided in section 730 of the act, a contingent fee is a fee paid by a client to ~~a~~ **an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm.** ~~licensed CPA or licensed CPA firm.~~

(2) **An individual licensee, firm licensee, an individual with practice privileges, or an out-of-state firm** who is paid or expects to be paid a contingent fee by a client shall disclose that fact to the client.

(3) As used in section 730(4) of the act, the term "tax matters" relates to the preparation of an original or amended tax return or claim for tax refund and includes giving advice on events that occurred before the time the advice is given if the advice is directly relevant to determining the existence, character, or amount of a schedule, entry, or other portion of a return of claim for refund.

(4) As provided in section 730(4) of the act, a fee is considered determined, based on the findings of a governmental agency, if the **individual licensee, firm licensee, individual with practice privileges, or**

out-of-state firm ~~CPA or CPA firm~~ can demonstrate a reasonable expectation at the time of a fee arrangement of substantive consideration by the agency with respect to the ~~CPA's or the CPA firm's~~ client. An expectation of substantive consideration is deemed not reasonable for preparation of original tax returns.

R 338.5465 Acts constituting discreditable conduct.

Rule 465. Any of the following acts by ~~a~~ **an individual licensee, registrant, or a firm licensee, an individual with practice privileges, or an out-of-state firm**, constitutes conduct that is discreditable to the accounting profession:

- (a) Using deceptive representations in connection with services performed.
- (b) Representing that services are of a particular standard when they are not.
- ~~(c) Disparaging the accounting services or business of another licensee by false representations of fact.~~
- (c)(d) Failing to perform, on a timely basis, services in accordance with the conditions, terms, or prerequisites of a public communication or any quotation.
- ~~(d)(e)~~ Misrepresenting facts or failing to disclose relevant facts.
- ~~(e)(f)~~ Creating false or unjustified expectations of favorable results.
- ~~(f)(g)~~ Implying abilities not supported by valid educational or professional attainments or licensing recognition.
- ~~(g)(h)~~ Implying the ability to influence improperly any court, tribunal, or other public body or official.
- ~~(h)(i)~~ Making any other representation or implication that is false, deceptive, or misleading.
- ~~(i)(j)~~ Employing or engaging a person to perform a discreditable act.
- ~~(j)(k)~~ Engaging in a trade practice prohibited by law.
- ~~(k)(l)~~ Retaining documents constituting the original books and records of a client after a demand has been made for their return.
- ~~(l)(m)~~ Failing to respond, within a reasonable time, to inquiries of the board or its authorized representatives relative to the administration of the act.
- ~~(m)(n)~~ Providing false or misleading information on the qualifying experience of an applicant for certified public accountant.
- ~~(n)(o)~~ Stating or implying that the **individual licensee, firm licensee, individual with practice privileges, or out-of-state firm** has received formal recognition as a specialist in any aspect of the practice of public accountancy if the **individual licensee, firm licensee, individual with practice privileges, or out-of-state firm** has not received the recognition.
- ~~(o)(p)~~ Representing that professional services can or will be competently performed for a stated fee when this is not the case, or making representations with respect to fees for professional services that do not disclose all variables which may reasonably be expected to affect the fees that will in fact be charged.

R 338.5475 Payment or acceptance of commissions; "commission" defined.

Rule 475. (1) As used in section 731 of the act, "commission" means any remuneration paid to **an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm** ~~CPA or CPA firm~~ by a third party in connection with a recommendation or referral of a person to the third party.

(2) As provided in section 731(3) of the act, a referral fee is not a commission when received or paid by **an individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm** ~~licensed CPA or licensed CPA firm~~ for recommending or referring a client to another **individual licensee, firm licensee, individual with practice privileges, or out-of-state firm** ~~licensed CPA or CPA firm~~ for a service involving the practice of public accounting.

(3) **An individual licensee, a firm licensee, an individual with practice privileges, or an out-of-state firm** who is paid or expects to be paid a commission or a referral fee shall disclose that fact to the client.

R 338.5480 **Rescinded.** ~~Engaging in business or occupation that impairs objectivity or independence prohibited.~~

~~Rule 480. A licensee, including a firm, engaged in the practice of public accounting shall not concurrently engage in any business or occupation that impairs objectivity or independence in rendering professional services.~~

R 338.5501 Peer review.

Rule 501. (1) Each firm or sole practitioner required to participate in a peer review program, pursuant to MCL 339.729(2), shall enroll in the program of a qualified sponsoring organization within 1 year of the earlier of the following:

(a) Its initial licensing date.

(b) The performance of services that require a peer review.

(2) Proof of a peer review shall not be required to be submitted to the department until the second renewal following initial licensure or the performance of services requiring a peer review.

(3) The department shall accept, as proof of compliance with MCL 339.729(2), the electronic submission of information from the facilitated state board access (FSBA) website.

(4)(3) Qualified sponsoring organizations shall include the center for public company audit firms (CPCAF) peer review program, the American institute of certified public accountants (AICPA) peer review program, national conference of CPA practitioners (NCCPAP) peer review program, and such other entities that adhere to the peer review standards defined in R 338.5102(1)(a)(f) as determined by the board. With respect to an out-of-state firm required to obtain a license under MCL 339.728(1)(b), a peer review sponsoring organization approved by another state in which that firm is licensed is presumed to be qualified in this state, with respect to that firm.

(5)(4) A licensee subject to peer review shall not be required to become a member of any sponsoring organization.

~~(5) A firm or sole practitioner who has not performed services as described in MCL 339.729 during the preceding 3 years shall submit a request for exemption with its license renewal application. The request may be submitted on a form provided by the department or in a manner otherwise acceptable to the department. The board and the department may extend the due date for the requirement for peer review upon a showing by the licensee that to comply with the requirement would present an undue hardship.~~

(6) Out-of-state firms required to obtain a peer review under MCL 339.728(5) may, in lieu of enrolling in a program sponsored by an organization described in subrule (3) of this rule, comply with the peer review requirement applicable in the state where that firm is licensed, proof of which shall be furnished to the department upon the department's request.

R 338.5503 Peer review standards; change in sponsoring organization; ~~adverse~~ **deficient** peer review reports; documentation.

Rule 503. (1) If a firm is merged, otherwise combined, dissolved, or separated, the sponsoring organization shall determine which firm is considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

(2) A firm choosing to change to another sponsoring organization may do so provided that the firm authorizes the previous sponsoring organization to communicate to the succeeding sponsoring organization any outstanding corrective actions related to the firm's most recent review.

(3) The department may rely on ~~an adverse~~ **a fail** peer review report or a second consecutive ~~modified~~ **pass with deficiencies** peer review report as prima facie evidence of a violation of professional standards.

(4) Each peer review and reviewer must comply with the applicable review standards in place at the time of the review. The following apply:

(a) Documents related to a peer review shall be retained in accordance with the AICPA's retention policies pursuant to R 338.5102(1)(~~a~~)(~~f~~), or until final adjudication of a complaint related to a peer review, whichever is later.

(b) The documents described in subdivision (a) of this subrule shall be available for inspection by the department during regular business hours with reasonable notice.

NOTICE OF PUBLIC HEARING

**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATION, SECURITIES, AND COMMERCIAL LICENSING BUREAU**

**ACCOUNTING RULES
Rule Set 2012-117 LR**

NOTICE OF PUBLIC HEARING
THURSDAY, MARCH 21, 2013
2501 Woodlake Circle, Okemos, Michigan
Conference Room 3, 1st Floor, 9:00 AM

The Department of Licensing and Regulatory Affairs will hold a public hearing on Thursday, March 21, 2013, at the Corporation, Securities, and Commercial Licensing Bureau, 2501 Woodlake Circle, Okemos, Michigan in Conference Room 3 at 9:00 a.m. The hearing will be held to receive public comments on proposed changes to the Administrative Rules for Accounting.

The proposed rule set (2012-117 LR) will revise the current rules to conform to the requirements set forth in Public Act 161 of 2008 and Public Act 215 of 2010, and to comply with the national standards of professional practice.

These rules are promulgated by the authority conferred on the Department of Licensing and Regulatory Affairs by sections 205 and 721 of 1980 PA 299, MCL 339.205 and 339.721; and on the board of accountancy by section 308 of 1980 PA 299, MCL 339.308; and by Executive Reorganization Order Nos. 1996-2, 2003-1, 2011-4, 2011-5, and 2011-6, MCL 445.2001, 445.2011, 445.2030, 445.2031 and 445.2032. These rules will take effect immediately upon filing with the Secretary of State.

The rules (2012-117 LR) are published on the Office of Regulatory Reinvention's website at www.michigan.gov/orr and in the March 1, 2013 issue of the *Michigan Register*. Comments may be submitted to the following address by 5:00 P.M. on Friday, March 22, 2013. Copies of the draft rules may also be obtained by mail or electronic transmission at the following address:

Department of Licensing and Regulatory Affairs
Stephani Fleming, Corporation, Securities, and Commercial Licensing Bureau
P.O. Box 30018 Lansing, MI 48909-7518
Phone: 517-373-9871 Fax: 517-241-7539
E-mail: flemings2@michigan.gov

The hearing site is accessible, including handicap parking. People with disabilities requiring additional accommodations in order to participate in the hearing (such as information in alternative formats) should contact the Bureau at 517-373-9871 at least 14 days prior to the hearing date. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. Information at this meeting will be presented by speakers and printed handouts.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~CONSUMER AND INDUSTRY SERVICES~~ LICENSING AND
REGULATORY AFFAIRS**

~~BUREAU OF SAFETY AND REGULATION~~ DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS COMMISSION

Proposed Draft February 6, 2013

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the **director of the department of licensing and regulatory affairs** ~~general industry safety standards commission~~ by sections 16 and 21 of **1974 PA Act No. 154 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030**) of the Public Acts of 1974, as amended, being SS408.1016 and 408.1021 of the Michigan Compiled Laws)

R 408.11203, R 408.11211, R 408.11213, R 408.11221, R 408.11222, R 408.11224, R 408.11241, R 408.11243, R 408.11262, R 408.11275, R 408.11293, and R 408.11294 are of the Michigan Administrative Code are amended and R 408.11202 is added, as follows:

PART 12. WELDING AND CUTTING

R 408.11202. Adoption of standards by reference; access to other MIOSHA rules.

Rule 1202. (1) The following standards are adopted by reference in these rules and are available from IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA; telephone number: 1-800-854-7179; or via the internet at web-site: <http://global.ihs.com>; a cost as of the time of adoption of these rules as stated in this subrule.

(a) American National Standards Institute ANSI B31.1 "Industrial Gas and Air Piping Systems," 1967 edition. Cost: \$96.00.

(b) ANSI B57.1 "Compressed Gas Cylinder Valve Outlet and Inlet Connections," 1965 edition. Cost: \$29.00.

(c) American Petroleum Institute API 1104 "Standard for Welding Pipe Lines and Related Facilities," 1973 edition. Cost: \$125.00.

(d) API PSD 2201 "Welding or Hot Tapping on Equipment Containing Flammables," 1963 edition. Cost: \$125.00.

(e) American Society of Mechanical Engineers ASME A13.1 “Identification of Piping Systems,” 1956 edition. Cost: \$60.00.

(2) The following standards are adopted by reference in these rules and are available from NFPA, 1 Batterymarch Park, Quincy, Massachusetts, USA, 02169-7471; telephone number: 1-617-770-3000; or via the internet at website: www.nfpa.org; at a cost as of the time of adoption of these rules as stated in this subrule.

(a) National Fire Protection Association (NFPA) Standard 50 “Bulk Oxygen Systems,” 1971 edition. Cost: \$27.00.

(b) NFPA 80 “Standard for the Installation of Fire Doors and Windows,” 1974 edition. Cost: \$27.00.

(3) The following standard is adopted by reference in these rules, “The Fire Resistance Directory.” This directory is available from Underwriters' Laboratory, 2600 NW Lake Road, Camas, Washington, 98607-8542, USA; telephone number: 1-877-854-3577; or via the internet at website: www.ul.com/directories; at a cost as of the time of adoption of these rules of \$150.00.

(4) The standards adopted in subrules (1), (2), and (3) of this rule are also available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(5) Copies of the standards adopted in subrules (1), (2), and (3) of this rule may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in this rule, plus \$20.00 for shipping and handling.

(6) The following standard is referenced in these rules, General Industry Safety Standard Part 33 ‘Personal Protective Equipment,’ R 408.13301 to R 408.13398. Up to 5 copies of this standard may be obtained at no charge from the Michigan Department of licensing and regulatory affairs, MIOSHA standards section, 7150 Harris Drive, P.O. Box 30643, Lansing, MI, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, at the time of adoption of these rules, is 4 cents per page.

R 408.11203. Definitions; A to C.

Rule 1203. (1) "AC" means alternating current.

(2) "Arc welding" means a process for joining metals by heating with an electric arc with or without the use of pressure with or without a filler material.

(3) "Brazing" means a process of joining metals without melting them with a filler metal melting above 800 degrees F.

(4) "Confined space" means a small or restricted space without proper life supporting atmosphere or in which mobility is restricted.

(5) "Cutting" means a process in which the severing or removing of metal is effected by the use of an arc or flame.

(6) "Cylinders" means containers for storing compressed gases manufactured, labeled, and periodically tested in accordance with specifications of the department of transportation regulations. ~~or manufactured in accordance with specifications of the national fire protection association, which are hereby incorporated by reference and are available for inspection at the Lansing office of the Michigan Department of Consumer and Industry Services. These regulations, Department of Transportation regulations on transporting dangerous articles – tariff no. 14, 1970, may be purchased from the American Trucking Association, H.J. Sonnenberg, Issuing Officer, 1616 P Street N.W., Washington, D.C. 20036, at a cost of \$11.00 each, and the National Fire Code, Volume 2, Gases 1970–71 may be purchased from the National Fire Protection Association, 60 Batterymarch Street, Boston, Massachusetts 02110, at a~~

~~cost of \$5.00 each, or from the Michigan State Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

R 408.11211. Employer and employee responsibilities.

Rule 1211. (1) An employer shall do all of the following:

(a) Give each employee training or a test before allowing him or her to use equipment for arc and gas welding and cutting.

(b) Provide face and eye protection and foot protection as prescribed in general industry safety standard Part 33 “Personal Protective Equipment,” **as referenced in R 408.11202.** ~~being R 408.13301 et seq. of the Michigan Administrative Code.~~

(c) Provide other personal protective clothing or equipment, such as gloves, aprons, hearing protection devices, respirators, lifelines, safety belts, and lanyards required to protect the employee from injury likely to be caused by the assigned task of welding and cutting. Except for long sleeve shirts required to protect the employee from ultraviolet rays to the arms and ankle length trousers, the personal protective clothing and equipment shall be provided without expense to the employee.

(d) Provide to an employee, at no expense to the employee, protective devices such as, but not limited to, curtains, safety glasses, or face shields to reduce the risk of flash burn, sparks, and foreign bodies to all employees in the area.

(e) Provide ventilation where necessary to protect an employee against toxic materials as prescribed by the **Michigan Occupational Safety and Health Administration (MIOHSA) standards.** ~~state department of public health.~~

(2) An employee shall comply with all of the following:

(a) Use welding and cutting equipment as trained and authorized.

(b) Use the protective equipment required by the employer or the hazard.

(c) Not tamper with safety devices.

(3) An employee in charge of the operation of oxygen or fuel-gas supply equipment, of oxygen or fuel-gas systems, including generators, shall be instructed and judged competent by the employer for this work before being left in charge. Rules and instructions covering the operation and maintenance of oxygen or fuel-gas supply equipment, including generators, and oxygen or fuel-gas distribution piping systems shall be readily available.

R 408.11213. Working in confined spaces.

Rule 1213. (1) When working in a confined space, the torch valves and the gas supply valve and oxygen valve outside the confined space shall be shut off during lunch, overnight, or for any other prolonged period. Where practicable, the torch and hose shall be removed from the confined space.

(2) When stick electrodes are used in a confined space, and welding is suspended during lunch, overnight, or for any other prolonged period, the electrode shall be removed from the holder and the machine shut off.

(3) The air in a confined space shall be tested with an approved device and purged, if necessary, before any entry. Ventilation shall be provided in the confined space ~~and~~ when an employee is present.

(4) A cylinder or welding power source used in a confined space shall be placed and secured on the outside of the space where work is being performed.

(5) An employee who is trained in rescue procedures, and with such equipment as is necessary to effect a rescue, if needed, shall be stationed outside the confined space during welding or cutting operations. An employer shall ensure that an effective means of communication is established between employees in the confined space and the attendant. When safety belts and lifelines are used, they shall be provided and used as prescribed in ~~rule 3390 of~~ general industry **safety** standard Part 33 “Personal Protection

Equipment,” **as referenced in R 408.11202**, ~~being R 408.13390 of the Michigan Administrative Code,~~ and attached to the welder's body so that his or her body cannot be jammed in a small exit opening.

(6) After welding operations are completed in a confined space, a sign or other warning shall be used to mark the hot metal.

R 408.11221. Cylinder marking.

Rule 1221. (1) **Compressed gas** cylinders shall be legibly marked, **for the purpose of identifying the gas content**, with either the chemical or trade name **of the gas**. **Such marking shall be by means of** stenciling, stamping, or labeling, and shall not be ~~tampered with or~~ readily removable. Whenever practical, the marking shall be located on the shoulder of the cylinder.

(2) Unlabeled cylinders shall not be used.

(3) Empty cylinders shall be so marked at time of depletion.

R 408.11222 Storage.

Rule 1222. (1) An oxygen cylinder shall be stored not less than 20 feet from fuel gas cylinders or a highly combustible material, such as, but not limited to, oil, grease, excelsior, flammable gas, or a source of ignition, or shall be separated from the material by a noncombustible wall, not less than 5 feet (1.6 meters) high, having a fire-resistance rating of 1/2 hour. An oxygen cylinder shall not be stored in an acetylene generator compartment.

The underwriters' laboratory fire resistance directory may be used as a guide to determine fire resistance, **as adopted in R 408.11202**. ~~The fire resistance directory is available from Underwriters' Laboratories Inc., 333 Pfingsten Road, Northbrook, Illinois 60062, at a cost of \$7.60, or from the Michigan Department of Consumer and Industry Services, Safety Standards Division, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

(2) A cylinder shall be stored away from heat in excess of 125 degrees Fahrenheit.

(3) A cylinder, including an empty cylinder, which is in storage, being shipped, or has the regulator removed shall have the cap secured in place, if a cap is provided in the design, or shall be otherwise protected.

(4) Storage shall be set up to ensure first-in, first-out usage.

(5) A cylinder storage area shall be posted with the names of the individual gases stocked, and a warning shall be posted against tampering by an unauthorized employee. An assigned storage area shall be located where a cylinder will not be knocked over or struck by a passing or falling object.

(6) Where different gases are stored, they shall be grouped by types. Groupings shall separate the flammable gases from the oxidizing gases as in subrule (1) of this rule.

(7) A storage area for cylinders shall be well ventilated. A cylinder shall not be stored in basements or pits, except where ventilation as specified by the **Michigan Occupational Safety and Health Administration (MIOSHA) standards** ~~department of public health~~ is furnished to keep the area purged of any accumulation of gases.

(8) Storage of fuel gas in a building in 1 area within 100 feet (30 meters) of another fuel gas storage area and not protected by an automatic sprinkler system shall be limited to a total gas capacity of 2,000 cubic feet (56 cubic meters approximately) or 11.8 cubic feet (.33 cubic meters) of liquefied gas, which is 735 pounds (333 kilograms) water capacity. Storage in excess of this amount shall be in a separate room or compartment with an exterior wall and on the top floor of the building, outside, or in a special building. All walls, floors, and ceilings shall be constructed of noncombustible material having a fire-resistance rating of 1 hour. The walls shall be continuous from the floor to the ceiling and shall be securely anchored. The separate room, compartment, or special building shall have no open flame for heat or light and shall be well ventilated. Openings from the separate storage room to other parts of the

building shall be protected by a self-closing fire door for a class B opening and shall have a fire-resistance rating of not less than 1 hour. Windows in partitions shall be wired glass and approved metal frames with a fixed sash. Installation shall be in accordance with ~~the NFPA 80 “Standard for the Installation of Fire Doors and Windows,” National Fire Protection Association Standard 80, 1974 edition, as adopted in R 408.11202.~~ **which is incorporated herein by reference and which is available for inspection at the Lansing office of the department of consumer and industry services. This standard may be purchased at a cost of \$3.75 from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.**

(9) Where a liquid or gaseous oxygen system is used to supply gaseous oxygen for welding and cutting and the system has a storage capacity of more than 20,000 cubic feet (560 cubic meters), measured at 14.7 psia (101.34 kPa) and 70 degrees Fahrenheit (21.1 degrees Celsius), including unconnected reserves at the site, the system shall be as prescribed in ~~NFPA National Fire Protection Association Standard 50 -1971, “Bulk Oxygen Systems,” 1971 edition, as adopted in R 408.11202.~~ **which is incorporated herein by reference and which may be inspected at the Lansing office of the department of consumer and industry services. This standard may be purchased from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909, at a cost of \$1.00 each.**

(10) A cylinder used for methylacetylene-propadiene, stabilized, shall be constructed of materials suitable for this fuel gas in the gaseous or liquid phases.

R 408.11224. General rules for cylinders--II.

Rule 1224. (1) Gases shall not be mixed within a cylinder except by the supplier.

(2) A cylinder shall not be placed where it will become a part of the electrical circuit by accidental grounding or where it may be burned by electric welding arc. A cylinder shall not be placed so that hot slag or flame will reach it or it shall be protected by a fire resistant shield. An electrode shall not be tapped against a cylinder to strike an arc.

(3) A regulator, gauge, or hose shall not be interchangeable between fuel gas, oxidizing gas or inert gas. Connections for compressed gas cylinders shall be as prescribed in ~~ANSI ASA B57.1-1965, “Compressed Gas Cylinder Valve Outlet and Inlet Connections,” 1965 edition, as adopted in R 408.11202.~~ **which is incorporated herein by reference and may be inspected at the Lansing office of the department of consumer and industry services. This standard may be purchased from the American National Standards Institute, 1430 Broadway, New York, New York 10018, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909 at a cost of \$4.00 each.**

(4) A cylinder valve shall be opened slightly for an instant and then closed before connecting to a regulator or manifold to clear the valve of dust and dirt. This shall not be done near a source of ignition. Pressure to a regulator shall be introduced by slowly opening the cylinder valve. An acetylene cylinder valve shall not be opened more than 1 1/2 turns of the spindle.

(5) Acetylene shall not be utilized or piped, except in cylinder manifolds, at a pressure in excess of 15 psig.

(6) Only the owner of the cylinder, if the owner is qualified, or a person trained, qualified, and authorized by the owner, shall refill a cylinder.

MANIFOLDING - SERVICE PIPING

R 408.11241. Piping material.

Rule 1241. (1) Piping for acetylene shall be limited to steel and ductile iron.

(2) Piping for other gases shall be compatible with the gas.

(3) Oxygen at pressures of more than 700 psig shall be run in stainless steel or copper alloy piping.

(4) Gray or white cast iron fittings shall not be used.

(5) Pipe and fittings shall be as prescribed in section 2 of the ANSI B31.1 ~~1967 standard~~, “Industrial Gas and Air Piping Systems,” **1967 edition, as adopted in R 408.11202**, **except for the following:** ~~which is incorporated herein by reference and may be inspected at the Lansing office of the department of consumer and industry services, except that:~~

(a) Pipe shall be not less than schedule 40 and fittings not less than standard weight in sizes up to and including 6-inch nominal.

(b) Copper tubing shall be type K or L.

(6) ~~This standard may be purchased from the American National Standards Institute, 1430 Broadway, New York, New York 10018, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909 at a cost of \$8.00.~~

~~-(7) A hose connection and hose complying with R 408.11233 rule 1233 may be used to connect the outlet of a manifold pressure regulator to piping if the working pressure of the piping is 250 p.s.i.g. or less, and the length of the hose does not exceed 5 feet.~~

R 408.11243. Installation and identification of piping.

Rule 1243. (1) Above ground piping, station outlet, and section valves shall be identified as to contents by color or name, or both, as prescribed in ASME ASA ~~standard A13.1 1956~~, “Identification of Piping Systems,” **1956 edition, as adopted in R 408.11202**. ~~which is incorporated herein by reference and may be inspected at the Lansing office of the department of consumer and industry services. This standard may be purchased from the American National Standards Institute, 1430 Broadway, New York, New York 10018, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909, at a cost of \$2.00.~~

(2) A cylinder manifold shall be installed under the supervision of **an individual** ~~someone~~ experienced in the proper practices with reference to **its** ~~their~~ installation and use.

R 408.11262. Welding drums, barrels, tanks, or other containers.

Rule 1262. (1) Welding or cutting shall not be performed on drums, barrels, tanks, or other containers until they have been cleaned of all flammable combustible or toxic materials or fumes.

(2) All pipe lines or other connections to drums, barrels, or tanks shall be disconnected or blanked.

(3) Hollow spaces or cavities shall be vented and either filled with water or purged with an inert gas before preheating, cutting, or welding.

(4) An opening shall be maintained during welding and cutting to vent gases or vapors.

(5) The welded construction of a transmission pipeline shall be conducted in accordance with **the API 1104 “Standard for Welding Pipe Lines and Related Facilities,” API Standard 1104 1973 edition, as adopted in R 408.11202**. ~~which is incorporated herein by reference and is available for inspection at the Lansing office of the department of consumer and industry services. This standard may be purchased at a cost of \$1.00 from the American Petroleum Institute, 1801 K Street, N.W., Washington, D.C. 20006, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

(6) The connection, by welding, of branches to a pipeline carrying a flammable substance shall be performed in accordance with **API PSD 2201 the publication “Welding or Hot Tapping on Equipment Containing Flammables,” API Standard PSD No. 2201 1963 edition, as adopted in R 408.11202**.

~~which is incorporated herein by reference, and is available for inspection at the Lansing office of the department of consumer and industry services. This standard may be obtained at no charge from the American Petroleum Institute, 1801 K Street, N.W., Washington, D.C. 20006, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

R 408.11275. Operation.

Rule 1275. (1) Engine fuel, cooling water, or shielding gas shall not be allowed to leak.

(2) A welding machine shall be disconnected when being moved and turned off when not in use.

(3) Electrodes shall be retracted or removed when not in use. Electrode holders not in use shall be placed so that they cannot make electrical contact with an employee, fuel or gas tanks, or conducting objects.

(4) A welder shall not let live electrodes or holders touch his **or her** bare skin or damp clothing. When arc welding is performed in wet conditions or under a condition of high humidity, the welder shall be protected against electric shock.

(5) Electrode holders shall not be cooled by immersion in water.

(6) Welding shall not be permitted where fumes of chlorinated hydrocarbons are present unless specific ventilation and personal protective equipment is provided as specified by the **Michigan Occupational Safety and Health Administration (MIOSHA) standards.** ~~department of public health.~~

(7) Before starting an arc welding operation, the welder shall **do all of the following:**

(a) Make sure the work lead is secured to the work.

(b) Make sure the magnetic work clamps are free of spatter on the contact surfaces.

(c) Spread out the welding cable, if necessary, to prevent overheating and damage.

(d) Make sure grounding connections are secured to a good ground.

(e) Make sure the required switching equipment for shutting down the machine has been provided.

(8) A welder shall not curl or loop welding cable around his **or her** body.

R 408.11293. Gas holders.

Rule 1293. (1) A gas holder shall be constructed on the gasometer principle, the bell being suitably guided. The gas bell shall move without a tendency to bind and shall have a clearance of not less than 2 inches (5.08 cm) from the shell.

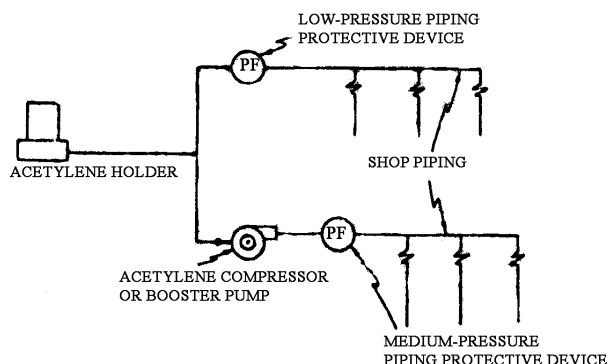
(2) The compressor or booster cutoff of a gas holder shall be located 12 inches above the landing point of the gas bell to prevent collapse of the bell.

(3) A gas holder shall be located in a heated and ventilated room as prescribed in **R 408.11292(2)** ~~subrule (2) of rule 1292~~ and the **Michigan Occupational Safety and Health Administration (MIOSHA) standards.** ~~division of occupational health of the department of consumer and industry services.~~ When heat is not supplied, the gas holder seals shall be protected from freezing.

(4) A means shall be provided to stop the generator feeding mechanism before the gas holder reaches the upper limit of its travel. A gas holder connected to only 1 generator shall have a capacity of not less than 1/3 of the hourly rating of the generator.

(5) Protective devices shall be installed in each supply line when acetylene is used from a gas holder without an increase in pressure at some points but with increased pressure by a compressor or booster pump at other points. A low pressure protective device shall be installed between the gas holder and the shop piping, and a medium pressure protective device shall be installed between the compressor or booster pump and the shop piping (see figure 2). Approved protective equipment is used to prevent **all of the following:**

Figure 2



- (a) Backflow of oxygen into a fuel gas supply system.
- (b) Passage of a flashback into a fuel gas supply system.
- (c) Excessive back pressure of oxygen in the fuel gas supply system. The 3 functions may be combined in 1 device or may be provided by separate devices.
- (6) A compressor or booster pump shall be located in a ventilated area away from sources of ignition.
- (7) A compressor or booster pump shall be provided with a pressure relief valve which will relieve at not more than 15 psig (103.5 kPa gage) as prescribed in **R 408.11292(5)**. ~~subrule (5) of rule 1292.~~ The discharge outlets of a compressor or booster pump shall be provided protective equipment as prescribed in **R 408.11252**. ~~rule 1252.~~

R 408.11294. Stationary acetylene generators; outside houses and inside rooms.

Rule 1294. (1) An opening in an outside acetylene generator house shall not be located within 5 feet (1.6 meters) of an opening in another building. The walls, floor, and roof shall be of noncombustible construction with a 1-hour, fire-resistance rating.

(2) Where part of a generator house is used for storage or manifolding of oxygen cylinders, the space to be occupied shall be separated from the generator or carbide storage section by construction partition walls continuous from floor to ceiling, gastight, constructed as prescribed in subrule (1) of this rule, securely anchored and with not less than 1 exterior wall. Separation walls shall be without openings. Exit doors shall be located so as to be accessible in an emergency.

(3) Explosion venting for generator houses and rooms shall be provided in the exterior wall or roof. The venting area shall be equal to not less than 1 square foot (.092 square meters) per 50 cubic feet (1.42 cubic meters) of room volume and may consist of 1 or any combination of the following:

- (a) Walls of light, noncombustible material, preferably single-thickness, single-strength glass.
- (b) Lightly fastened hatch covers.
- (c) Lightly fastened swinging doors on exterior walls which swing outward.
- (d) Lightly fastened walls or roof designed to relieve at a pressure of not more than 25 pounds (11.35 kilograms) per square foot.

(4) The installation of an acetylene generator within a building shall be restricted to a 1-story building or roof or top floor of a multistory building. A generator installed inside a building shall be enclosed in a separate room and constructed as prescribed in subrule (2) of this rule.

~~—(5) An opening from an inside generator room to another part of the building shall be protected by a swinging-type, self-closing class "B" fire door having a 1-hour, fire-resistance rating. A window in the partition shall be wired glass in metal frames as prescribed in NFPA-80-1973 standard, installation of fire doors and windows, which is incorporated herein by reference and is available for inspection at the Lansing office of the department of consumer and industry services. This standard may be purchased~~

~~from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909, at a cost of \$2.25.~~

~~(5)(6)~~ A generator room or house shall be equipped with vents located at ceiling and floor levels.

~~(6)(7)~~ Illumination during daylight hours shall be by natural light. Where artificial lighting is necessary, it shall be from explosion-proof fixtures and controls. Wiring shall run through rigid conduit with threaded connectors. Telephone and other electrically powered apparatus either shall be designed for an explosive atmosphere or located outside the generator room or house.

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

MCL 24.256(1) states in part:

“Sec. 56. (1) The Office of Regulatory Reform shall perform the editorial work for the Michigan register and the Michigan Administrative Code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the Office of Regulatory Reform, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The Office of Regulatory Reform may correct in the publications obvious errors in rules when requested by the promulgating agency to do so...”

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

February 27, 2013

Rob Nederhood
Office of Regulatory Reinvention
PO Box 30004; 111 S. Capitol Ave.
4th Floor Romney Building
Lansing, MI 48909

Mr. Nederhood:

In accordance with MCL 24.256(1) of the Administrative Procedures Act, we are asking your office to correct an obvious error noted in the following administrative rule for the Board of Massage Therapy. The error has been bolded and underlined for easy identification.

R 338.721 License renewal; requirements.

*Rule 21. An applicant for license renewal who has been licensed for the **2-year** period immediately preceding the application for renewal shall submit the required fee.*

MCL 333.17957(2) of the Public Health Code requires that the Department of Licensing and Regulatory Affairs (Department) provide for a 3-year license cycle for a massage therapy license.

The Department is requesting that “**2-year**” be amended to “**3-year**” in R 338.721.

Feel free to contact me if you have any questions or concerns.

Sincerely,

Desmond Mitchell, Policy Analyst
Department of Licensing and Regulatory Affairs
Bureau of Health Care Services
Board Management and Rules Section
(517) 373-0042
mitchelld6@michigan.gov

Memorandum

DATE: February 7, 2013

TO: Liz Arasim
Licensing and Regulatory Affairs

FROM: Deidre O’Berry, Office of Regulatory Reinvention
Licensing and Regulatory Affairs

SUBJECT: Correction of obvious error – “Massage Therapy Rules”

We have approved your request to correct an obvious error in Massage Therapy Rules as published in the Michigan Administrative Code.

The Office of Regulatory Reinvention hereby approves your request to amend the Michigan Administrative Code under MCL 24.256(1) of the Administrative Procedures Act.

R 338.721 will be changed to read:

“R 338.721 License renewal; requirements.

Rule 21. An applicant for license renewal who has been licensed for the **3-year** period immediately preceding the application for renewal shall submit the required fee.”

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

Memorandum

DATE: February 19, 2013

TO: Rob Nederhood
Deputy Director
Office of Regulatory Reinvention

FROM: Liz Arasim, Regulatory Affairs Officer
Department of Licensing and Regulatory Affairs

SUBJECT: Request for Correction of the Workers' Compensation Health Care Services Rules

Pursuant to Section 56(1) of the Administrative Procedures Act, MCL 24.256(1), the Department of Licensing and Regulatory Affairs' Workers' Compensation Agency is requesting the Office of Regulatory Reinvention to exercise its discretion to correct an obvious error in the Workers' Compensation Health Care Services Rules, as published in the Michigan Administrative Code.

The obvious error is contained in R 418.10108. As currently published in the Administrative Code, Rule 108 includes only subrules (a), (b) and (c). The rule, however, included subrules (a) to (aa) at the time the rule was revised to amend subrule (c) only. Unfortunately, the draft of this revision inadvertently omitted subrules (d) to (aa). This error was repeated in the final promulgation of the rule revision, which took effect December 26, 2012.

Hence, the Department is requesting that the obvious error in R 418.10108 of the Workers' Compensation Health Care Services Rules be corrected to show the rule in its entirety and restore subrules (d) to (aa) to the rule.

Thank you for your assistance in this matter.

Memorandum

DATE: February 20, 2013

TO: Liz Arasim, Regulatory Affairs Officer
Department of Licensing and Regulatory Affairs

FROM: Deidre O’Berry, Office of Regulatory Reinvention
Licensing and Regulatory Affairs

SUBJECT: Correction of obvious error – “Workers' Compensation Health Care Service Rule”

We have approved your request to correct an obvious error in Workers' Compensation Health Care Service Rule, as published in the Michigan Administrative Code.

The Office of Regulatory Reinvention hereby approves your request to amend the Michigan Administrative Code under MCL 24.256(1) of the Administrative Procedures Act.

Workers' Compensation Health Care Service Rule:

“R 418.10108 of the Workers’ Compensation Health Care Services Rules be corrected to show the rule in its entirety and restore subrules (d) to (aa) to the rule.”

**EXECUTIVE ORDERS
AND
EXECUTIVE REORGANIZATION ORDERS**

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

(a) Executive orders and executive reorganization orders.”

EXECUTIVE ORDERS

EXECUTIVE ORDER

No. 2013 - 4

**GOVERNOR'S TASK FORCE ON CHILD ABUSE AND NEGLECT
DEPARTMENT OF HUMAN SERVICES**

**RESCISSION OF
EXECUTIVE ORDER 2010-18**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 107 of the federal Child Abuse Prevention and Treatment Act, as amended by the federal Keeping Children and Families Safe Act of 2003, Public Law 108-36, 42 USC 5106c, authorizes grants to states for the purpose of assisting states in developing, establishing, and operating programs designed to improve: (1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner that limits additional trauma to the child victim; (2) the handling of cases of suspected child abuse - or neglect-related fatalities; (3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation; and (4) the handling of cases involving children with disabilities or serious health-related problems who are victims of abuse or neglect; and

WHEREAS, to qualify for grants to states under Section 107 of the federal Child Abuse Prevention and Treatment Act, a state must establish or designate and maintain a multidisciplinary task force on children's justice; and

WHEREAS, Executive Order 1991-38 created the Governor's Task Force on Children's Justice within the Executive Office and was amended by Executive Order 1993-8; and

WHEREAS, Executive Order 2010-18 rescinded Executive Orders 1991-38 and 1993-8 and established the Governor's Task Force on Child Abuse and Neglect within the Department of Human Services ("Department"); and

WHEREAS, because this state remains committed to continual improvement in the handling of child abuse and neglect cases and to securing federal funding for such efforts, it is appropriate to refocus the activities of the Governor's Task Force on Child Abuse and Neglect established by Executive Order 2010-18 through a newly focused Governor's Task Force on Child Abuse and Neglect; and

WHEREAS, decreasing the membership of the Governor's Task Force on Child Abuse and Neglect will ensure efficient administration and effectiveness of government;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. RESCISSION OF EXECUTIVE ORDER

Executive Order 2010-18 is rescinded.

II. CREATION OF THE TASK FORCE

A. The Governor's Task Force on Child Abuse and Neglect ("Task Force") is established within the Department of Human Services.

B. The Task Force is designated as the multidisciplinary task force for this state for purposes of Section 107(c) of the federal Child Abuse Prevention and Treatment Act, 42 USC 5106c(c).

C. The Task Force shall consist of 18 members appointed by the Governor and shall be composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment-related fatalities. Membership shall include the Director of the Department of Human Services, or his or her designee, and shall include all of the following:

1. Individuals representing the law enforcement community.
2. Judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect, including individuals involved with the defense and the prosecution of child abuse and neglect cases.
3. Child advocates, including both attorneys for children or court appointed special advocates.
4. Health and mental health professionals.
5. Individuals representing child protective services agencies.
6. Parents, including, but not limited to, parents experienced in working with children with disabilities.
7. Individuals representing parents' groups.

D. Of the members of the Task Force appointed under Section II. C., one-third of the members shall be appointed for a term expiring on December 31, 2013; one-third of the members shall be appointed for a term expiring on December 31, 2014; and one-third of the members shall be appointed for a term expiring on December 31, 2015. After the initial appointments, members of the Task Force shall be appointed for terms of three years.

E. A vacancy on the Task Force occurring other than by expiration of a term shall be filled by the Governor in the same manner as the original appointment for the balance of the unexpired term. A member of the Task Force may be reappointed for subsequent additional terms.

F. The Governor shall designate a member of the Task Force to serve as Chairperson of the Task Force. The Chairperson of the Task Force shall appoint a member of the Task Force to serve as Vice-Chairperson at the pleasure of the Chairperson.

G. The Chairperson may establish and disband committees consisting of members of the Task Force as deemed necessary.

H. Members who attend less than 66% of the scheduled meetings in any calendar year shall be considered to have vacated their appointment. Upon notification, the Governor shall fill the vacancy in the same manner as the original appointment.

III. CHARGE TO THE TASK FORCE

A. At least once every 3 years, the Task Force shall comprehensively review and evaluate state investigative and administrative handling, civil judicial handling, and criminal judicial handling of all of the following:

1. Cases of child abuse and neglect, particularly child sexual abuse and exploitation.
2. Cases involving suspected child maltreatment-related fatalities.
3. Cases of child abuse and neglect involving a potential combination of jurisdictions, including, but not limited to, interstate, federal-state, and state-tribal.

B. At least once every 3 years, the Task Force shall comprehensively make policy and training recommendations to the Governor, the Michigan Supreme Court, and the Michigan Legislature in each of the following categories:

1. Investigative, administrative, and judicial handling of all of the following in a manner that reduces any additional trauma to a child victim and the victim's family and that also ensures procedural fairness to the accused:
 - a. Cases of child abuse and neglect, particularly child sexual abuse and exploitation.
 - b. Cases involving suspected child maltreatment-related fatalities.
 - c. Cases of child abuse and neglect involving a potential combination of jurisdictions, including, but not limited to, interstate, federal-state, and state-tribal.
2. Experimental, model, and demonstration programs for testing innovative approaches and techniques that improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of the performance of court-appointed attorneys and guardians ad litem for children, and that also ensure procedural fairness to the accused.
3. Reform of state laws, ordinances, regulations, protocols, procedures, and rules to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.

C. The Task Force shall function as a statewide coordinating council to oversee the implementation of recommendations of the Task Force under Section III. B. Acting as the statewide coordinating council, the Task Force shall develop both of the following:

1. Model statewide protocols adaptable to local needs.

2. A statewide comprehensive initiative to disseminate and encourage the proper use of protocols and to educate the public about child abuse and neglect, particularly child sexual abuse and exploitation.

D. The Task Force shall make other recommendations relating to child abuse and neglect to the Governor, the Michigan Supreme Court, and the Michigan Legislature that the Task Force considers relevant and useful.

E. The Task Force shall coordinate with the Task Force on the Prevention of Sexual Abuse of Children created by 2012 P.A. 593.

F. The Task Force shall perform other functions related to the Task Force's duties as requested by the Governor.

IV. OPERATIONS OF THE TASK FORCE

A. The Task Force shall be staffed and assisted by personnel from the Department, subject to available funding. Any budgeting, procurement, or related management functions of the Task Force shall be performed under the direction and supervision of the Director of the Department and the Chairperson of the Task Force.

B. The Task Force shall adopt procedures consistent with applicable law and this Order governing its organization and operations.

C. A majority of the members serving shall constitute a quorum for the transaction of the Task Force's business. The Task Force shall act by a majority vote of its members in attendance.

D. The Task Force shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Task Force.

E. The Task Force may establish subcommittees of Task Force members and advisory workgroups composed of public officers, public employees, or members of the public who are not members of the Task Force. The Task Force may adopt, reject, or modify any recommendations proposed by a subcommittee or an advisory workgroup.

F. The Task Force may, as appropriate, make inquiries, conduct studies or investigations, hold hearings, and receive comments from the public. The Task Force also may consult with outside experts in order to perform its duties including, but not limited to, experts in the private sector, organized labor, government agencies, tribal governments, and at institutions of higher education.

G. Members of the Task Force shall serve without compensation. Members of the Task Force may receive reimbursement for necessary travel and expenses according to relevant statutes and the rules and procedures of the Michigan Civil Service Commission and the Department of Technology, Management, and Budget, subject to available funding.

H. The Task Force may hire or retain contractors, subcontractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Task Force and the performance of its duties, in accordance with this Order, and the relevant statutes, rules, and procedures of the Michigan Civil Service Commission and the Department of Technology, Management, and Budget, subject to available funding.

I. The Task Force may accept donations of labor, services, or other things of value from any public or private agency or person.

J. Members of the Task Force shall refer all legal, legislative, and media contacts to the Department.

V. MISCELLANEOUS

A. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order.

B. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

This Executive Order shall become effective upon filing.

Given under my hand and the Great Seal of the
State of Michigan this _____ day of
_____, in the year of our Lord, two
thousand and thirteen.

RICHARD D. SNYDER
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

EXECUTIVE ORDERS

EXECUTIVE ORDER

No. 2013 - 5

**CREATION OF THE
MICHIGAN STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION**

WHEREAS, the supervision and tracking of juvenile delinquents across state lines is necessary to provide for the welfare and protection of juveniles and of the public; and

WHEREAS, Congress, by enacting the Crime Control Act, 4 U.S.C. Sec. 112 (1965), authorized and encouraged states to enter into compacts for cooperative efforts and mutual assistance in the prevention of crime; and

WHEREAS, the Interstate Compact for Juveniles empowers states to regulate juveniles' interstate movement, to provide proper supervision or return of juveniles, delinquents, or status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control, and in doing so have endangered their own safety and the safety of others; and

WHEREAS, Michigan is a party to the Interstate Compact for Juveniles, and the Compact requires Michigan to create a State Council;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used herein:

A. "Council" means the Michigan State Council for Interstate Juveniles Supervision established by this Order.

B. "Department of Human Services" means the principal department of state government created by 1965 P.A. 380, MCL 16.550.

C. "Interstate Commission" means the entity created by the Interstate Compact for Juveniles.

D. "Interstate Compact for Juveniles" means the compact entered into by the state of Michigan pursuant to 2003 P.A. 56, MCL 3.691-692.

II. MICHIGAN STATE COUNCIL FOR INTERSTATE JUVENILE SUPERVISION

A. The Michigan State Council for Interstate Juvenile Supervision is hereby created as an advisory body pursuant to 2003 P.A. 56, MCL 3.691 - 692, within the Department of Human Services.

B. The Council shall consist of five (5) members as follows:

1. A representative of the legislature selected by the Legislative Council;
2. A representative of the judiciary appointed by the Governor;
3. A representative of the executive branch appointed by the Governor;
4. A representative of crime victims appointed by the Governor; and
5. The compact administrator appointed by the Governor.

C. Appointees shall hold office for a term of four (4) years. However, of the appointees initially appointed, the Governor shall designate two (2) of the Governor's appointees to serve a term of one (1) year and two (2) to serve a term three (3) years, and the representative of the legislature shall serve a term of two (2) years.

D. A vacancy on the council caused by the expiration of a term or by any other cause of termination of membership on the council shall be filled in the same manner as the original appointment.

E. An appointee appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the appointee who he or she is to succeed in the same manner as the original appointment. An appointee may be reappointed for additional terms.

III. CHARGE TO THE COUNCIL

The council shall exercise oversight and advocacy concerning Michigan's participation in Interstate Commission activities including, but not limited to, the development of policies concerning operations and procedures of the compact within the state.

IV. OPERATIONS OF THE COUNCIL

A. The compact administrator shall direct the operations of the council.

B. The council may adopt procedures, not inconsistent with law and with this Order, governing its organization, operation and procedure.

C. Members of the council shall not delegate their responsibilities to other persons. A majority of the serving members constitutes a quorum for the transaction of businesses at a meeting. The council shall act by a majority vote of its serving members.

D. The council shall meet at least annually and at the call of the compact administrator as may be provided in the procedures of the council. Meetings of the council may be held at any location within the state of Michigan and the council may meet by conference call or teleconference.

E. In developing recommendations, the council may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public. The council may consult with outside experts in order to perform its duties.

F. Members of the council shall serve without compensation. Members of the council may receive reimbursement for necessary travel and expenses according to relevant statutes, rules and procedures of the Department of Technology, Management and Budget and the Michigan Civil Service Commission.

G. Members of the council shall refer all legal, legislative, and media contacts to the Department of Human Services.

H. The Council shall be staffed by personnel within the Department of Human Services.

I. All departments, committees, commissioners, or officers of the state or of any political subdivision of the state shall give the council or any member or representative of the council, any necessary assistance required by the council so far as that assistance is compatible with its duties; free access shall also be given to any books, records, or documents in its, his or her custody, relating to matters within the scope of inquiry, study, or investigation of the council.

J. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

This Executive Order shall become effective upon filing.

Given under my hand and the Great Seal of the state
of Michigan this _____ day of _____, in the
Year of our Lord Two Thousand Thirteen.

RICHARD D. SNYDER
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

EXECUTIVE ORDERS

EXECUTIVE ORDER

No. 2013 - 6

**CREATION OF
MENTAL HEALTH AND WELLNESS COMMISSION
DEPARTMENT OF COMMUNITY HEALTH**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, the state of Michigan needs an effective and comprehensive system of support services that is designed to improve the quality of life, safety, and independence of people living with mental health conditions; and

WHEREAS, it is critical that the system of support services be as strong and as effective as possible; and

WHEREAS, it is necessary to continually examine, analyze, and provide recommendations and actions that improve the mental health of all Michigan citizens; and

WHEREAS, there is a need for greater coordination between and across state departments, as well as local systems and agencies to address gaps in the delivery of mental health services throughout the state of Michigan; and

WHEREAS, there is a need to assess various state and local agencies to better identify and address those gaps in the delivery of mental health services throughout the state of Michigan; and

WHEREAS, there have been previous studies, reports, and recommendations concerning the delivery of mental health services and there is a need to review those past efforts to determine what has been accomplished and which recommendations remain advisable; and

WHEREAS, the Mental Health and Wellness Commission will advise and assist in strengthening and improving the system of support and the delivery of services, and will ensure that key policy plans and recommendations to improve the quality of life, safety, and independence of Michigan's citizens living with mental health conditions will become reality;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. CREATION OF THE MENTAL HEALTH AND WELLNESS COMMISSION

A. The Mental Health and Wellness Commission ("Commission") is created as an advisory body within the Michigan Department of Community Health ("Department").

B. The Commission shall be composed of the following 6 members:

- The Lieutenant Governor, or his designee from within the Lieutenant Governor's Office;
- The Director of the Michigan Department of Community Health ("Director"), or his designee from within the Michigan Department of Community Health;
- One member representing the Senate Majority caucus, appointed by the Senate Majority Leader;
- One member representing the Senate minority caucus, appointed by the Senate Majority Leader;
- One member representing the House majority caucus, appointed by the Speaker of the House; and
- One member representing the House minority caucus, appointed by the Speaker of the House.

II. CHARGE TO THE COMMISSION

A. The Commission shall act in an advisory capacity and shall do all of the following:

1. Make findings and recommend ways to address any gaps in the delivery of mental health services, and propose new service models to strengthen the entire delivery spectrum of mental health services throughout the state of Michigan, including but not limited to ways to improve interagency and cross-agency efforts and communication.
2. Take testimony from experts and interested parties, and establish workgroups and/or subcommittees to research and develop recommendations in certain subject areas, as determined by the Commission.
3. Evaluate Departmental recommendations for fiscal year 2014 that address issues related to public safety.
4. Once findings are made, and the Commission's recommendations are finalized, propose any legislation needed to implement the recommendations.
5. Areas of focus for the Commission to research and recommend policy to accomplish the goals set forth in Section II. A. 1. shall include, but not be limited to:
 - Youth;
 - Veterans;
 - Education;
 - Public Safety;
 - Long-Term Care;
 - Employment and Independence;
 - Mental and Physical Health Integration;
 - Societal impacts;
 - Services and delivery; and

- Other areas as proposed by the Chair of the Commission and the Director of the Department.
- 6. Provide other information or advice as directed by the Governor or the Director of the Department.
- 7. Coordinate with the Mental Health Diversion Council created by Executive Order 2013-7.
- 8. Issue a Final Report of its findings and recommendations by December 20, 2013.

B. As directed by the Director of the Department, Department staff shall assist the Commission with research and the development of plans, policies and recommendations. As directed by the Director, Department staff shall work with and coordinate with other departments, as well as local and state systems, to ensure efficient collection of information and implementation of approved recommendations from the Commission and adopted by the Administration.

C. The Commission shall cease to exist on or before June 1, 2014.

III. OPERATIONS OF THE COMMISSION

A. The Commission shall be staffed and assisted by personnel from the Lieutenant Governor's office and the Department, as directed by the Lieutenant Governor and Director of the Department, respectively. Any budgeting, procurement, and related management functions of the Commission shall be performed under the direction and supervision of the Director of the Department.

B. The Lieutenant Governor shall serve as the Chairperson of the Commission.

C. The Director of the Department shall serve as the Vice-Chairperson of the Commission.

D. The Commission shall select from among its members a Secretary. Department staff shall assist the Secretary with recordkeeping responsibilities.

E. A majority of the members of the Commission serving constitutes a quorum for the transaction of the Commission's business. The Commission shall act by a majority vote of its serving members.

F. The Commission shall adopt procedures consistent with Michigan law and this Order governing its organization and operations, and may establish committees or advisory panels with stakeholders including, but not limited to, foundations, non-profits, private providers, and recipients of services, and request public participation on advisory panels as the Commission deems necessary. The Commission also may adopt, reject, or modify any recommendations proposed by committees or advisory panels.

G. The Commission shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Commission.

H. In developing recommendations, the Commission may, as appropriate, make inquiries, conduct studies or investigations, hold hearings, and receive comments from the public, non-profits, foundations, and private providers. The Commission also may consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

I. Members of the Commission who serve in the Legislature may, among other things, provide perspective on the effectiveness of current services, participate in establishing and evaluating proposals for improvement, and recommend legislation to accomplish the goals the Commission approves and the Administration adopts.

J. Members of the Commission shall serve without compensation but may receive reimbursement for necessary travel and expenses according to relevant statutes and the rules and procedures of the Michigan Civil Service Commission and the Michigan Department of Technology, Management and Budget, subject to available funding.

K. The Commission may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Commission and the performance of its duties as the Lieutenant Governor deems advisable and necessary, in accordance with this Order, and the relevant statutes, rules, and procedures of the Michigan Civil Service Commission and the Michigan Department of Management and Budget.

L. The Commission may accept donations of labor, services, or other things of value from any public or private agency or person. Any donations shall be expended in accordance with applicable laws, rules, and procedures.

IV. MISCELLANEOUS

A. All departments, committees, commissioners, or officers of this state or of any political subdivision of this state may give to the Commission, or to any member or representative of the Commission, any necessary assistance required by the Commission, or any member or representative of the Commission, in the performance of the duties of the Commission so far as is compatible with its, his, or her duties.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order.

This Executive Order shall become effective upon filing.

Given under my hand and the Great Seal of the state
of Michigan this _____ day of
_____, in the Year of our Lord Two
Thousand Thirteen

RICHARD D. SNYDER
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

EXECUTIVE ORDERS

EXECUTIVE ORDER

No. 2013 - 7

**CREATION OF
MENTAL HEALTH DIVERSION COUNCIL
MICHIGAN DEPARTMENT OF COMMUNITY HEALTH**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, the state of Michigan recognizes the goal of reducing the number of people with mental illness or intellectual or developmental disabilities (including comorbid substance addiction) from entering the corrections system, while maintaining public safety; and

WHEREAS, it is important that the state of Michigan improve behavioral health screening, assessment, and treatment of individuals involved in the criminal justice system to improve identification, reduce risk, and provide adequate care for complex behavioral health conditions; and

WHEREAS, effective coordination of state and local resources is needed to provide necessary improvements throughout the system, including stakeholders in law enforcement, behavioral health services, and other human service agencies; and

WHEREAS, establishment of the Mental Health Diversion Council within the Michigan Department of Community Health will advise and assist in the implementation of a diversion action plan, and provide recommendations for statutory, contractual, or procedural changes to improve diversion;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. CREATION OF THE MENTAL HEALTH DIVERSION COUNCIL

A. The Mental Health Diversion Council (“Council”) is created as an advisory body to the Governor within the Michigan Department of Community Health (“Department”).

B. The Council shall be composed of fourteen (14) members appointed by the Governor. Of the members initially appointed, four (4) members shall be appointed for terms expiring on January 30, 2015; five (5) members shall be appointed for terms expiring on January 30, 2016; and five (5) members shall be appointed for terms expiring on January 30, 2017. After the initial appointments, members of the council shall serve a term of four (4) years.

C. The Council consists of the following members:

- The Lieutenant Governor, or his designee from within the Lieutenant Governor’s office;

- The director of the Department of Community Health, or his designee from within the Department of Community Health;
- The director of the Department of Corrections, or his designee from within the Department of Corrections;
- An individual representing the State Court Administrative Office;
- An individual representing a Medicaid pre-paid inpatient health plan (PIHP);
- An individual representing adult service agencies and/or providers from a local community mental health service program (CMHSP);
- An individual representing the judiciary;
- An individual representing prosecutors;
- An individual representing community prisoner or jail re-entry;
- An individual representing court administrators;
- An individual representing county sheriffs;
- An individual representing local law enforcement;
- A licensed attorney with experience representing individuals with mental illness; and
- An individual representing advocates or consumer representatives.

D. A vacancy on the council occurring other than by expiration of a term shall be filled in the same manner as the original appointment for the balance of the unexpired term.

II. CHARGE TO THE COUNCIL

A. The council shall act in an advisory capacity and shall do all of the following:

1. Adopt and implement a diversion action plan to improve efforts to divert individuals with mental illness, intellectual, and developmental disabilities (including comorbid substance abuse disorders) from criminal justice involvement to appropriate treatment.
2. Make recommendations for statutory, regulatory, and contractual requirements applicable to criminal justice and behavioral health services. These recommendations are to include the use of screening and assessment tools to improve identification of those in need of treatment.
3. Identify areas of best practice in Michigan to expand the use of effective pre-booking and post-booking options for those with mental illness or intellectual and developmental disabilities.
4. Recommend a performance monitoring process to include baseline and post-implementation data for prevalence of mental illness, outcomes, and return on investment.
5. Recommend a model for improving overall community response for individuals with mental illness, intellectual disabilities, or developmental disabilities who engage in illegal or disruptive behavior.
6. Coordinate with the Mental Health Prevention, Recovery, and Wellness Commission created by Executive Order 2013-6.

B. As directed by the Director of the Department, Department staff shall assist the council with establishment of policies and procedures regarding the use of grants and other funds.

C. The council shall provide other information or advice as requested by the Governor or the Department.

III. OPERATIONS OF THE COUNCIL

A. The council shall be staffed and assisted by personnel from the Department as directed by the Director of the Department. Any budgeting, procurement, and related management functions of the council shall be performed under the direction and supervision of the Director of the Department.

B. The Governor shall designate the Chairperson of the council.

C. The council may select from among its members a Vice-Chairperson.

D. The council shall select from among its members a Secretary. Council staff shall assist the Secretary with recordkeeping responsibilities.

E. The council may create committees and advisory panels to assist the council in policy-making recommendations.

F. A majority of the members of the council serving constitutes a quorum for the transaction of the council's business. The council shall act by a majority vote of its serving members.

G. The council shall adopt procedures consistent with Michigan law and this Order governing its organization and operations, and may establish committees and request public participation on advisory panels as the council deems necessary. The Council may adopt, reject, or modify any recommendations proposed by committees or advisory panels.

H. The council shall meet at the call of the Chairperson and as may be provided in procedures adopted by the council.

I. In developing recommendations, the council may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public. The council may consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

J. Members of the council shall serve without compensation but may receive reimbursement for necessary travel and expenses according to relevant statutes and the rules and procedures of the Michigan Civil Service Commission and the Department of Technology, Management, and Budget, subject to available funding.

K. The council may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the council and the performance of its duties as the Director of the Department deems advisable and necessary, in accordance with this Order, and the relevant statutes, rules, and procedures of the Michigan Civil Service Commission and the Department of Technology, Management and Budget.

L. The council may accept donations of labor, services, or other things of value from any public or private agency or person. Any donations shall be expended in accordance with applicable laws, rules, and procedures.

M. Members of the council shall refer all legal, legislative, and media contacts to the Department.

IV. MISCELLANEOUS

A. All departments, committees, commissioners, or officers of this state or of any political subdivision of this state may give to the council, or to any member or representative of the council, any necessary assistance required by the council, or any member or representative of the council, in the performance of the duties of the council so far as is compatible with its, his, or her duties.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order.

This Executive Order shall become effective upon filing.

Given under my hand and the Great Seal of
the state of Michigan this _____ day of
_____, in the Year of our
Lord Two Thousand Thirteen

RICHARD D. SNYDER
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

OTHER OFFICIAL INFORMATION

MCL 24.208 states in part:

Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

** * **

(i) Other official information considered necessary or appropriate by the office of regulatory reinvention.

OTHER OFFICIAL INFORMATION

February 13, 2013

Mr. Rob Nederhood
Office of Regulatory Reinvention
George W. Romney Building- 4th Floor
111 S. Capitol Avenue
Lansing, MI 48933

Dear Mr. Nederhood:

Rules promulgated under the Savings and Loan Act of 1980, 1980 PA 307, have been rendered obsolete by 2012 PA 503, which repealed the Savings and Loan Act effective December 31, 2012. Pursuant to the Administrative Procedures Act, Section 31(2), MCL 24.231(2), the Savings and Loan Associations rules R 491.101 – R 491.197 are rescinded effective immediately.

Pursuant to the Administrative Procedures Act, Section 56(1), MCL 24.256(1), the Office of Financial and Insurance Regulation ("OFIR") requests the Office of Regulatory Reinvention to perform the editorial work for the Michigan Administrative Code which reflects the rescission of:

- Savings and Loan Associations (R 491.101 – R 491.197).

Please provide an electronic copy of the Michigan Register which contains this correction to OFIR Bank and Trust Deputy Commissioner Karen K. Lawson, lawsonkl@michigan.gov, and OFIR Office of General Counsel Attorney, Lisa Johnson, johnsonl24@michigan.gov.

Sincerely,



R. Kevin Clinton
Commissioner

cc: Karen K. Lawson

MICHIGAN ADMINISTRATIVE CODE TABLE
(2013 SESSION)

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

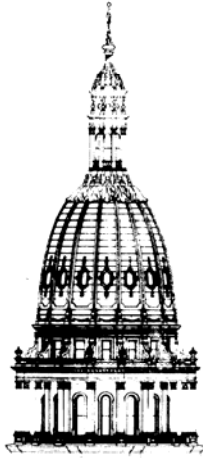
(i) Other official information considered necessary or appropriate by the Office of Regulatory Reform.”

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2013 RULE FILINGS)**

R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue
408.10413	R	2013	408.42503	*	2013
408.10421	*	2013	408.42518	*	2013
408.10509	*	2013	408.42520	*	2013
408.10541	*	2013	408.42521	*	2013
408.10570	*	2013	408.42522	*	2013
408.10579	*	2013	408.42524	*	2013
408.10580	*	2013	408.42525	*	2013
408.10582	*	2013	408.42526	*	2013
408.10590	*	2013	408.42527	*	2013
408.10761	R	2013	408.42528	*	2013
408.10763	R	2013	408.42531	*	2013
408.10765	R	2013	408.42532	*	2013
408.10801	*	2013	408.42533	*	2013
408.10807	*	2013	408.42534	R	2013
408.10823	*	2013	408.42535	R	2013
408.10914	*	2013	408.42602	*	2013
408.10925	*	2013	408.42644	*	2013
408.10999	*	2013			
408.41610	*	2013			
408.41627	*	2013			
408.41633	*	2013			
408.41658	*	2013			
408.41719	*	2013			
408.41725	*	2013			
408.41728	*	2013			
408.42131	R	2013			
408.42145	R	2013			
408.42149	*	2013			
408.42156	*	2013			
408.42157	*	2013			
408.42159	*	2013			
408.42160	R	2013			
408.42402	*	2013			
408.42403	*	2013			
408.42404	*	2013			
408.42405	*	2013			
408.42406	*	2013			
408.42407	*	2013			
408.42502	*	2013			

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



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**ADMINISTRATIVE RULES
ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2012 SESSION)**

Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”

2012 Michigan Public Acts Table

Legislative Service Bureau
Legal Division, Statutory Compiling and Law Publications Unit
124 W. Allegan, Lansing, MI 48909

January 31, 2013
Through PA 625 of 2012

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
1	5194		Yes	2/7	2/7	2/7/12 #	School aid; payments; procedure for payment of deficit or obligations; modify for certain school districts. (Rep. F. Durhal)
2	5195		Yes	2/7	2/7	2/7/12 #	School aid; payments; payment of deficit or obligations; require to be paid to the Michigan finance authority. (Rep. F. Durhal)
3	4403		Yes	2/7	2/7	2/7/12	Courts; juries; individuals who fail to return jury questionnaires; ensure continued eligibility for jury service. (Rep. S. Jackson)
4	4893		Yes	2/7	2/7	2/7/12	Occupations; optometrists; special volunteer license and immunity from liability; expand to include optometrists. (Rep. M. Callton)
5	4284		Yes	2/14	2/14	2/14/12	Crimes; disorderly conduct; certain conduct directed at funeral and memorial services; prohibit as disorderly conduct. (Rep. B. Rendon)
6	4745		Yes	2/14	2/14	2/14/12 #	Criminal procedure; sentencing guidelines; sentencing guidelines for crime of disorderly conduct at a funeral; revise. (Rep. K. Damrow)
7	4920		Yes	2/7	2/15	2/15/12	Cities; home rule; authority to enact local ordinances with criminal penalties of not more than 180 days in jail; provide. (Rep. P. Scott)
8	4921		Yes	2/7	2/15	2/15/12	Townships; charter; authority to enact local ordinances with criminal penalties of not more than 180 days in jail; provide. (Rep. K. Heise)

* - I.E. means Legislature voted to give the Act immediate effect.

** - Act takes effect on the 91st day after sine die adjournment of the Legislature.

*** - See Act for applicable effective date.

+ - Line item veto.

++ - Pocket veto.

- Tie bar.

2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
9	4922		Yes	2/7	2/15	2/15/12	Townships; general law; authority to enact local ordinances with criminal penalties of not more than 180 days in jail; provide. (Rep. J. Walsh)
10	4923		Yes	2/14	2/15	2/15/12	Villages; general law; authority to enact local ordinances with criminal penalties of not more than 180 days in jail; provide. (Rep. B. Constan)
11	4924		Yes	2/7	2/15	2/15/12	Villages; home rule; authority to enact local ordinances with criminal penalties of not more than 180 days in jail; provide. (Rep. P. Muxlow)
12	5192		Yes	2/14	2/15	2/15/12	Labor; public service labor disputes; membership of board of trustees of certain police and fire retirement systems as a prohibited subject of bargaining; clarify. (Rep. F. Durhal)
13		0130	Yes	2/7	2/15	5/16/12	Traffic control; civil infraction procedures; minimum number of unpaid parking tickets a person may have before the secretary of state will not issue or renew the person's operator's license; revise. (Sen. D. Hildenbrand)
14	5125		Yes	2/21	2/21	2/21/12 #	Counties; boards and commissions; powers and duties of county road commissioners to be exercised by the county board of commissioners; provide for. (Rep. J. Switalski)
15	5126		Yes	2/21	2/21	2/21/12 #	Counties; boards and commissions; transfer of functions of a county road commission to the county board of commissioners; provide for. (Rep. D. Zorn)
16	5073		Yes	2/21	2/22	2/22/12	Courts; judges; certain district court judgeships; reduce in number. (Rep. K. Cotter)
17	5074		Yes	2/21	2/22	2/22/12	Courts; judges; certain district court judgeships; reduce in number. (Rep. P. Somerville)
18	5075		Yes	2/21	2/22	2/22/12	Courts; judges; certain circuit court and district court judgeships; reduce in number. (Rep. P. Pettalia)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
19	5093		Yes	2/21	2/22	2/22/12	Courts; judges; certain district court judgeships; reduce in number. (Rep. J. Walsh)
20	5094		Yes	2/21	2/22	2/22/12	Courts; judges; certain district court judgeships; reduce in number. (Rep. S. Erwin Oakes)
21	5095		Yes	2/21	2/22	2/22/12	Courts; judges; certain district court judgeship; reduce in number. (Rep. R. Schmidt)
22	5106		Yes	2/21	2/22	2/22/12	Courts; judges; certain circuit court judgeship; reduce in number. (Rep. P. Cavanagh)
23	5107		Yes	2/21	2/22	2/22/12	Courts; judges; certain district court judgeship; reduce in number. (Rep. P. Pettalia)
24	4074		Yes	2/21	2/23	2/23/12 #	Corrections; prisoners; prisoner to obtain certain identity documents before release; require under certain circumstances. (Rep. M. O'Brien)
25	4075		Yes	2/21	2/23	2/23/12 #	State; identification cards; forms of identification necessary to apply for a state identification card; include corrections identification card and allow access by secretary of state to certain prisoner information. (Rep. M. Shirkey)
26	4076		Yes	2/21	2/23	2/23/12 #	Traffic control; driver license; forms of identification necessary to apply for driver license; include corrections identification card and allow access by secretary of state to certain prisoner information. (Rep. K. Damrow)
27	4077		Yes	2/21	2/23	2/23/12 #	Criminal procedure; sentencing; notification to prisoner regarding importance of obtaining identity documents; require under certain circumstances and provide that existing identity documents be forwarded to the department of corrections. (Rep. B. Glardon)
28	5136		Yes	2/21	2/23	2/23/12	Recreation; other; recreational vehicles; allow electronic verification of identity of applicant for title and registration purposes. (Rep. W. Schmidt)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
29	4445		Yes	2/24	2/24	2/24/12	Appropriations; supplemental; school aid supplemental including distressed district student transition grants; provide for fiscal year 2011-2012. (Rep. C. Moss)
30	5085		Yes	2/28	2/28	2/28/12	Campaign finance; contributions and expenditures; certain payroll deduction plans used to collect a contribution; prohibit. (Rep. M. Shirkey)
31	5086		Yes	2/28	2/28	2/28/12	Campaign finance; contributions and expenditures; prohibition on using public resources to establish or administer certain payroll deduction plans; provide for. (Rep. P. Opsommer)
32		0525	Yes	2/28	2/28	2/28/12	Weapons; licensing; renewal of concealed pistol license before expiration date of existing license; allow under certain circumstances and specify expiration date for renewed license. (Sen. G. Hansen)
33	5071		Yes	2/28	2/28	2/28/12	Courts; judges; certain district court judgeships; reduce in number. (Rep. J. Walsh)
34	5072		Yes	2/28	2/28	2/28/12	Courts; judges; certain district court judgeships; reduce in number. (Rep. K. Heise)
35	5101		Yes	2/28	2/28	2/28/12	Courts; judges; certain trial court judgeships; reduce in number. (Rep. J. Walsh)
36	5102		Yes	2/28	2/28	2/28/12	Courts; judges; circuit court judgeships; reduce in number, and reorganize certain circuits. (Rep. K. Heise)
37	5103		Yes	2/28	2/28	2/28/12	Courts; judges; district court judgeships; reduce, and consolidate certain district court districts. (Rep. D. Rutledge)
38	5104		Yes	2/28	2/28	2/28/12	Courts; judges; certain circuit court judgeships; reduce in number. (Rep. P. Somerville)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
39		0298	Yes	3/6	3/6	3/6/12	Insurance; other ; practitioners who employ, use, or act as a runner, capper, or steerer to falsely or fraudulently obtain benefits; prohibit as fraudulent act and revise procedures for calculation of Michigan basic property insurance association rates. (Sen. V. Smith)
40		0849	Yes	3/6	3/6	3/25/12	Legislature; apportionment ; redistricting of the court of appeals; provide for. (Sen. J. Hune)
41	4578		Yes	3/6	3/6	3/6/12	Environmental protection ; sewage; land application of septage waste; preempt certain local restrictions. (Rep. K. Goike)
42	4754		Yes	3/6	3/6	3/6/12	Transportation; railroads ; sale of certain state-owned rail lines; permit. (Rep. F. Foster)
43	4994		Yes	3/6	3/6	3/6/12	Environmental protection; water pollution ; annual wastewater report requirement; repeal, and rescind corresponding rules. (Rep. E. Kowall)
44	4369		Yes	3/6	3/7	3/7/12	Health; pharmaceuticals ; electronic monitoring system for certain dispensed controlled substances; allow health care payment or benefit providers to access data until date certain and allow department to request access data. (Rep. L. Liss)
45	4246		Yes	3/13	3/13	3/13/12	Labor; collective bargaining ; definition of public employee; revise. (Rep. A. Pscholka)
46	4668		Yes	3/13	3/13	3/13/12 #	Property tax; assessments ; assessment of real property; revise for certain summer resort and assembly corporations. (Rep. F. Foster)
47	4669		Yes	3/13	3/13	3/13/12 #	Property tax; assessments ; sale of shares in certain summer park and resort associations; revise definition of transfer of ownership to exclude. (Rep. F. Foster)
48		0611	Yes	3/13	3/13	3/13/12	Human services; medical services ; maintenance of effort on nursing homes; extend sunset. (Sen. B. Caswell)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
49		0702	Yes	3/13	3/13	3/13/12	Occupations; health care professions; beginning date for fingerprinting and criminal history check requirement; modify. (<i>Sen. J. Moolenaar</i>)
50	4589		Yes	3/13	3/13	3/13/12	Torts; governmental immunity; liability for a defect in a sidewalk; revise. (<i>Rep. P. Somerville</i>)
51		0787	Yes	3/13	3/13	3/13/12	Health facilities; licensing; criminal records check through the federal bureau of investigation for home for the aged employees; clarify. (<i>Sen. M. Nofs</i>)
52		0788	Yes	3/13	3/13	3/13/12	Human services; adult foster care; criminal records check through the federal bureau of investigation under adult foster care facility licensing act; clarify. (<i>Sen. M. Nofs</i>)
53	4929		Yes	3/15	3/16	3/16/12	Labor; public service employment; collection of union dues by public school personnel; prohibit. (<i>Rep. J. Haveman</i>)
54		0534	Yes	3/21	3/21	6/30/12 #	Vehicles; fund-raising registration plates; anatomical gift donation fund-raising registration plate; create. (<i>Sen. J. Gleason</i>)
55	4978		Yes	3/21	3/21	6/30/12 #	Vehicles; registration plates; distribution of funds collected for the organ and tissue donation education fund; modify, and change fund name to the Thomas Daley gift of life fund. (<i>Rep. K. Daley</i>)
56		0778	Yes	3/22	3/22	3/22/12	Natural resources; inland lakes; public road access to lakes or streams; specify authorized uses. (<i>Sen. M. Kowall</i>)
57		0634	Yes	3/22	3/22	3/22/12	Property tax; payment and collection; eligibility for property tax deferment for partnerships; clarify. (<i>Sen. J. Hune</i>)
58	4846		Yes	3/22	3/22	11/1/12	Watercraft; violations; vessel operated without required marine safety equipment; allow peace officer to issue citation to owner or operator, require observer when vessel is towing a person, and revise definition of passenger. (<i>Rep. W. Schmidt</i>)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
59	4847		Yes	3/22	3/22	11/1/12	Watercraft; other ; identification and lighting requirements for barges; enact and provide penalties and remedies. (Rep. H. Haugh)
60	4848		Yes	3/22	3/22	11/1/12	Watercraft; violations ; fleeing and eluding police or conservation officer while operating a vessel; prohibit. (Rep. A. LaFontaine)
61	5109		Yes	3/22	3/22	11/1/12	Watercraft; safety ; requirement for persons riding on or being towed behind a personal watercraft to wear certain personal flotation devices; eliminate. (Rep. N. Jenkins)
62	5110		Yes	3/22	3/22	11/1/12	Watercraft; traffic control ; criteria for investigatory stops of moving vessels; clarify. (Rep. R. LeBlanc)
63	4639		Yes	3/22	3/22	3/22/12	Probate; other ; disposition of decedent's remains; require that directions by a person properly designated by service member be followed. (Rep. K. Damrow)
64		0683	Yes	3/27	3/27	3/27/12	Appropriations; zero budget ; supplemental appropriations; provide OPEB funds for fiscal year 2011-2012. (Sen. R. Kahn)
65		0685	Yes	3/27	3/27	3/27/12	Natural resources; hunting ; deer damage shooting permits; modify requirements for issuance and limit number of authorized shooters. (Sen. J. Proos)
66	4618		Yes	3/27	3/27	3/27/12	Property tax; exemptions ; exemption for property housing elderly or disabled families; provide retroactive approval under certain circumstances. (Rep. M. O'Brien)
67		0992	Yes	3/29	3/29	3/29/12	Consumer credit; lending practices ; nonrecourse commercial mortgage loans; clarify effect of certain mortgage provisions. (Sen. A. Meekhof)
68	4647		Yes	3/29	3/29	6/1/12	Civil procedure; evidence ; expert witness testimony; allow to be presented by video communication equipment. (Rep. K. Heise)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
69	4691		Yes	3/29	3/29	5/1/12	Courts; juries ; exemption for nursing mothers from jury duty; provide for under certain circumstances. (Rep. K. Heise)
70	5332		Yes	3/29	3/29	3/29/12	Income tax; returns ; mandatory unitary filing for certain taxpayers with a certificated credit; eliminate. (Rep. J. Haveman)
71	4843		Yes	4/4	4/4	4/4/12	Highways; name ; certain portion of M-61; designate as "Trooper Jeffrey Werda Memorial Highway". (Rep. J. Johnson)
72		0727	Yes	4/5	4/6	4/6/12 #	Courts; circuit court ; requirement for circuit court to consent to appointment of assistant prosecutor by prosecuting attorney in certain cases; eliminate. (Sen. D. Booher)
73		0728	Yes	4/5	4/6	4/6/12 #	Courts; circuit court ; requirement for circuit court to consent to appointment of assistant prosecutor by the prosecutor in certain cases; eliminate. (Sen. D. Booher)
74		0515	Yes	4/9	4/9	4/9/12 #	Property; conveyances ; transfer of certain state fair property to Michigan fast track land bank authority; provide for. (Sen. V. Smith)
75	4803		Yes	4/9	4/9	4/9/12 #	Property; conveyances ; transfer of certain state fair property to Michigan fast track land bank authority; provide for. (Rep. J. Womack)
76		1018	Yes	4/9	4/10	4/10/12	Labor; public service employment ; definition of public employee; clarify regarding recognition of union based on receipt of government subsidy or interlocal agreement. (Sen. D. Hildenbrand)
77		0711	Yes	4/11	4/11	4/11/12	Gaming; lottery ; lottery winners; require lottery bureau to share names with department of human services. (Sen. J. Moolenaar)
78		0712	Yes	4/11	4/11	4/11/12	Human services; services or financial assistance ; determination of financial eligibility for family independence program; include certain lottery and gambling winnings. (Sen. M. Green)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
79	5033		Yes	4/11	4/11	4/11/12	Human services ; services or financial assistance; eligibility for family independence program; apply asset test. (Rep. D. Agema)
80		035	Yes	4/10	4/11	4/11/12	Traffic control ; traffic regulation; maximum length allowed for a recreational vehicle in combination with a trailer; revise. (Sen. M. Nofs)
81		0412	Yes	4/10	4/11	4/11/12	Natural resources ; hunting; wild turkey license fee; modify use. (Sen. D. Booher)
82		0874	Yes	4/10	4/11	4/11/12	Liquor ; licenses; revocation of license for multiple sales to minors; base on consecutive 12-month period. (Sen. T. Rocca)
83	4552		Yes	4/10	4/11	4/11/12	Worker's compensation ; benefits; certain volunteer registrants; allow to collect worker's compensation insurance through the state under certain circumstances and to make technical corrections concerning reports and application of certain provisions. (Rep. K. Kurtz)
84	4601		Yes	4/10	4/11	4/11/12	Torts ; product liability; liability of successor corporation for asbestos claims; enact limits. (Rep. J. Haveman)
85	4689		Yes	4/11	4/11	4/11/12	Property ; conveyances; transfer of Scott correctional facility in Northville; provide for. (Rep. K. Heise)
86	5081		Yes	4/10	4/11	7/1/13 #	Commercial code ; other; general revisions to article 1 of the uniform commercial code; provide for. (Rep. M. Huuki)
87	5082		Yes	4/10	4/11	7/1/13 #	Commercial code ; warehouse receipts; general revisions to article 7 of the uniform commercial code; provide for. (Rep. K. Cotter)
88	5083		Yes	4/10	4/11	7/1/13 #	Commercial code ; secured transactions; general revisions to article 9 of the uniform commercial code; provide for. (Rep. E. Lipton)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
89	4289		Yes	4/12	4/12	4/12/12 +	Appropriations ; zero budget; supplemental appropriations; provide for fiscal year 2011-2012. (Rep. C. Moss)
90	4663		Yes	4/10	4/12	4/12/12	Agriculture ; other; registration of farm names; repeal. (Rep. B. Glardon)
91	5206		Yes	4/10	4/12	4/12/12	Agriculture ; products; administrative rules related to cherry assessments; rescind. (Rep. B. Rendon)
92	5207		Yes	4/10	4/12	4/12/12	Agriculture ; products; certain administrative rules; rescind. (Rep. K. Kurtz)
93	5208		Yes	4/10	4/12	4/12/12	Agriculture ; products; administrative rule related to liquid measuring devices; rescind. (Rep. P. Muxlow)
94	5209		Yes	4/10	4/12	4/12/12	Agriculture ; products; administrative rules related to the Upper Peninsula state fair; rescind. (Rep. E. McBroom)
95	5210		Yes	4/10	4/12	4/12/12	Agriculture ; products; administrative rules related to the state apple commission; rescind. (Rep. R. Outman)
96	5211		Yes	4/10	4/12	4/12/12	Agriculture ; products; administrative rules related to grain dealers; rescind. (Rep. B. Glardon)
97	5212		Yes	4/10	4/12	4/12/12	Agriculture ; products; certain administrative rules related to certain nursery stock; rescind. (Rep. A. LaFontaine)
98		0291	Yes	4/12	4/13	4/13/12	Vehicles ; motorcycles; motorcycle helmet requirement; abolish under certain circumstances. (Sen. P. Pavlov)

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PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
99		0414	Yes	4/18	4/18	4/18/12 #	Insurance; health care corporations; coverage for certain treatment related to autism; provide for. (<i>Sen. M. Green</i>)
100		0415	Yes	4/18	4/18	4/18/12 #	Insurance; health; coverage for certain treatment related to autism; provide for. (<i>Sen. T. Hunter</i>)
101		0981	Yes	4/18	4/18	4/18/12 #	Insurance; health; autism coverage reimbursement act; create. (<i>Sen. R. Richardville</i>)
102	4207		Yes	4/19	4/19	4/19/12	Environmental protection; air pollution; open burning of certain household waste; prohibit, and authorize burning of produce bins. (<i>Rep. K. Kurtz</i>)
103	5011		Yes	4/18	4/20	4/20/12	Construction; code; certain enforcement and administrative functions; authorize governmental unit to contract with private organization for. (<i>Rep. M. Ouimet</i>)
104	5050		Yes	4/18	4/20	7/20/12	Law enforcement; investigations; providing false information to peace officer conducting criminal investigation; prohibit, and provide penalties. (<i>Rep. J. Walsh</i>)
105	5051		Yes	4/18	4/20	7/20/12 #	Criminal procedure; sentencing guidelines; sentencing guidelines for crime of providing false information to a peace officer conducting a criminal investigation; enact. (<i>Rep. J. Walsh</i>)
106		0946	Yes	4/24	4/24	4/24/12	Agriculture; diseases and pests; nursery stock; require certain inspections. (<i>Sen. B. Caswell</i>)
107	5189		Yes	5/1	5/1	5/1/12	Appropriations; supplemental; funding for state emergency relief services; provide for. (<i>Rep. A. Price</i>)
108		0528	Yes	5/1	5/1	5/1/12 #	Environmental protection; underground storage tanks; liability and cleanup procedures; modify. (<i>Sen. T. Casperson</i>)

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- Tie bar.

2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
109		0529	Yes	5/1	5/1	5/1/12 #	Environmental protection ; underground storage tanks; liability and cleanup procedures; modify. (Sen. D. Booher)
110		0530	Yes	5/1	5/1	5/1/12 #	Environmental protection ; underground storage tanks; liability and cleanup procedures; modify. (Sen. P. Pavlov)
111		0531	Yes	5/1	5/1	5/1/12 #	Environmental protection ; underground storage tanks; liability and cleanup procedures; modify. (Sen. A. Meekhof)
112		0532	Yes	5/1	5/1	5/1/12 #	Environmental protection ; underground storage tanks; liability and cleanup procedures; modify. (Sen. M. Kowall)
113		0533	Yes	5/1	5/1	5/1/12 #	Environmental protection ; underground storage tanks; liability and cleanup procedures; modify. (Sen. M. Green)
114		0349	Yes	5/1	5/1	5/1/12	Property tax ; principal residence exemption; extended filing deadline and conditional rescission for foreclosed property; provide for. (Sen. D. Hildenbrand)
115		1005	Yes	5/1	5/1	5/1/12	Juveniles ; other; certain child development training for lawyer-guardian ad litem; require, and modify termination of parental rights provisions. (Sen. J. Emmons)
116		0617	Yes	5/1	5/2	5/2/12	State ; other; concurrent jurisdiction on federally owned lands within the Pictured Rocks national lakeshore; provide for. (Sen. T. Casperson)
117	4346		Yes	5/1	5/2	5/2/12	Use tax ; collections; prepayment collection process; revise. (Rep. J. Walsh)
118		0428	Yes	5/1	5/2	5/2/12	Sales tax ; collections; prepayment collection process; revise. (Sen. D. Hildenbrand)

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	HB	SB					
119	4751		Yes	5/1	5/2	5/2/12	Agriculture; marketing; unfair practices of voluntary associations; revise responsibility of expense of proceedings. (Rep. J. Johnson)
120	4845		Yes	5/1	5/2	11/1/12	Watercraft; safety; boating safety certificate and watercraft endorsement; define, and allow operation of motorboat by person less than 12 years of age under certain circumstances. (Rep. F. Foster)
121	4974		Yes	5/1	5/2	5/2/12	Highways; name; portion of US-31 designated as the "Medal of Honor Recipients Highway"; provide technical amendment. (Rep. A. Price)
122		029	Yes	5/8	5/8	8/6/12 #	Crimes; weapons; sale, possession, and use of device that uses electro-muscular technology; amend Michigan penal code to allow under certain circumstances. (Sen. G. Hansen)
123		030	Yes	5/8	5/8	8/6/12 #	Weapons; licensing; sale, possession, and use of device that uses electro-muscular disruption technology; amend firearms act to allow under certain circumstances. (Sen. R. Jones)
124		093	Yes	5/8	5/8	8/6/12 #	Criminal procedure; sentencing guidelines; sentencing guidelines for certain crimes involving electro-muscular disruption devices; enact. (Sen. G. Hansen)
125	4393		Yes	5/8	5/8	6/1/12	Liquor; drinking age; certain minors; exempt from underage drinking violation under certain circumstances. (Rep. A. Forlini)
126	4658		Yes	5/8	5/8	5/8/12	Sales tax; exemptions; prisoner purchases; eliminate exemption. (Rep. A. Forlini)
127	5057		Yes	5/8	5/8	5/8/12	Records; birth; heirloom birth certificate; establish flat fee. (Rep. L. Lyons)
128	4992		Yes	5/11	5/14	5/14/12	Elections; ballots; ballot instructions; revise to require placement in voting booth and include with absentee ballots, and make other miscellaneous changes to the Michigan election law. (Rep. E. Kowall)

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	HB	SB					
129		0619	No	5/15	5/15	3/28/13	Education ; <i>public school academies</i> ; certain requirements and limitations on authorizing cyber schools; revise. (Sen. P. Colbeck)
130		0621	Yes	5/15	5/15	5/15/12	School aid ; <i>other</i> ; conditions under which public school may receive school aid for instruction provided to nonpublic school students at nonpublic school site; revise. (Sen. G. Hansen)
131		0622	Yes	5/15	5/15	7/1/12 #	Education ; <i>students</i> ; dual enrollment eligibility; modify in postsecondary options act. (Sen. J. Emmons)
132		0623	Yes	5/15	5/15	7/1/12 #	Education ; <i>students</i> ; dual enrollment eligibility; modify in career and technical preparation act. (Sen. J. Emmons)
133		0709	Yes	5/15	5/15	7/1/12 #	Education ; <i>students</i> ; dual enrollment opportunities for high school students in career and technical preparation programs; expand to nonpublic school and home school students. (Sen. J. Emmons)
134		0710	Yes	5/15	5/15	7/1/12 #	Education ; <i>students</i> ; dual enrollment opportunities for high school students in certain postsecondary institutions; expand to nonpublic school and home-schooled students. (Sen. J. Emmons)
135	5178		Yes	5/16	5/16	5/16/12	Property tax ; <i>exemptions</i> ; poverty exemption; revise filing requirements. (Rep. R. Tlaib)
136		0393	Yes	5/15	5/16	5/16/12	Corrections ; <i>jails</i> ; population requirement for municipalities eligible to seek reimbursement from inmates; remove. (Sen. R. Jones)
137	5186		Yes	5/15	5/16	5/16/12	Property ; <i>conveyances</i> ; reverter clause for certain property in Branch county if not used for educational purposes; replace with right of entry if land not used for public purposes. (Rep. K. Kurtz)
138		0499	Yes	5/22	5/22	5/22/12	Recreation ; <i>trails</i> ; rail trails; authorize installation of telecommunication facilities under certain circumstances. (Sen. T. Casperson)

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2012 Michigan Public Acts Table

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	HB	SB					
139		064	Yes	5/22	5/22	5/22/12 #	Housing; landlord and tenants; summary proceedings to recover possession of premises; allow after 7-day notice to quit if tenant injures or threatens to injure another individual. (Sen. R. Jones)
140		065	Yes	5/22	5/22	5/22/12 #	Housing; landlord and tenants; termination of lease for certain controlled substance offenders if police report is filed; allow filing by person other than landlord. (Sen. T. Schuitmaker)
141		092	Yes	5/22	5/22	5/22/12	Probate; powers of attorney; written acknowledgment of responsibilities by agent appointed under a power of attorney; require. (Sen. S. Bieda)
142		0269	Yes	5/22	5/22	9/1/12	Civil procedure; small claims; limitation on recovery amount in small claims suits; revise. (Sen. T. Schuitmaker)
143		1064	Yes	5/23	5/24	5/24/12	Land use; zoning and growth management; wireless communications equipment; regulate special land use approval. (Sen. M. Kowall)
144	4563		Yes	5/24	5/24	5/24/12	State; escheats; certain business-to-business exemption; provide for. (Rep. A. Nesbitt)
145		0929	Yes	5/30	5/30	5/30/12	State financing and management; funds; 21st century jobs trust fund; modify. (Sen. M. Kowall)
146		0768	Yes	5/30	5/30	8/29/12	Crimes; business crimes; possession, manufacturing, installation, transfer, or sale of an automated sales suppression device; prohibit. (Sen. J. Pappageorge)
147		0769	Yes	5/30	5/30	8/29/12 #	Criminal procedure; sentencing guidelines; sentencing guidelines for crime of selling, manufacturing, installing, transferring, or possessing an automated sales suppression device; enact. (Sen. J. Pappageorge)
148		0887	Yes	5/30	5/30	5/30/12	Occupations; licensing fees; grain dealers; modify fees, and eliminate surety requirements. (Sen. M. Green)

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	HB	SB					
149		0888	Yes	5/30	5/30	5/30/12	Occupations; agriculture; administration of farm produce insurance program; authorize collection of fee from producers for state enforcement costs and revise fund investment requirements. (<i>Sen. M. Green</i>)
150		0908	Yes	5/30	5/30	5/30/12	Financial institutions; loan officers; regulation of loan modification activities by sponsored mortgage loan originators; clarify. (<i>Sen. D. Booher</i>)
151	5232		Yes	5/30	5/30	5/30/12	Income tax; checkoff; contribution designation requirements; modify. (<i>Rep. J. Farrington</i>)
152	5289		Yes	5/30	5/30	5/30/12	Local government; financing; investments in certain deposit accounts; authorize. (<i>Rep. M. Ouimet</i>)
153	5288		Yes	5/30	5/30	5/30/12	Higher education; community colleges; investments in certain deposit accounts; authorize. (<i>Rep. J. Womack</i>)
154	4632		Yes	6/5	6/5	6/5/12 #	Income tax; checkoff; special Olympics Michigan fund; provide check-off option. (<i>Rep. K. Cotter</i>)
155		0381	Yes	6/5	6/5	6/5/12 #	Income tax; other; special Olympics Michigan fund; create. (<i>Sen. R. Jones</i>)
156	4653		Yes	6/5	6/5	6/5/12	Elections; polling places; displaying the name of any elected or appointed official on materials at public polling locations; prohibit. (<i>Rep. A. Forlini</i>)
157	5119		Yes	6/5	6/5	6/5/12	Elections; election officials; jurisdiction in which a precinct election inspector may serve; expand. (<i>Rep. R. Outman</i>)
158	5362		Yes	6/7	6/7	10/1/12	Insurance; no-fault; liability for damage to motor vehicles; increase limit. (<i>Rep. C. Denby</i>)

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	HB	SB					
159		0557	Yes	6/12	6/12	6/12/12	Family law; paternity; revocation of paternity act; enact. (Sen. S. Bieda)
160		0560	Yes	6/12	6/12	6/12/12 #	Family law; paternity; determination of parentage for intestate succession; provide for determination under revocation of paternity act. (Sen. R. Jones)
161	5328		Yes	6/12	6/12	6/12/12 #	Family law; paternity; acknowledgment of parentage; allow to be set aside under revocation of paternity act. (Rep. M. Lori)
162	5329		Yes	6/12	6/12	6/12/12 #	Family law; paternity; order of filiation; allow to be set aside under revocation of paternity act. (Rep. P. Somerville)
163		0320	Yes	6/12	6/12	6/12/12	Children; protection; ex parte emergency removal order allowing the department of human services to take protective custody of a child; allow. (Sen. R. Jones)
164		0744	Yes	6/14	6/14	6/14/12	Environmental protection; permits; permit processing period; extend at request of applicant under certain circumstances. (Sen. M. Kowall)
165		0300	No	6/14	6/14	3/28/13 #	Insurance; essential; use of credit information and credit scoring; regulate. (Sen. J. Gleason)
166		0937	Yes	6/14	6/14	6/14/12	Insurance; other; receivers; limit powers related to secured instruments. (Sen. J. Hune)
167		0640	Yes	6/12	6/14	6/14/12	State; buildings; flags of the United States and the state of Michigan flown at state buildings or sold by state agencies; require to be made in the United States. (Sen. R. Kahn)
168		0465	Yes	6/19	6/19	6/19/12 #	Criminal procedure; sentencing guidelines; sentencing guidelines for crime of financial exploitation of vulnerable adult; revise to reflect increased penalties. (Sen. D. Hildenbrand)

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	HB	SB					
169		0455	Yes	6/19	6/19	6/19/12 #	Criminal procedure ; sentencing guidelines; sentencing guidelines for certain fraud and embezzlement violations; revise. (Sen. T. Rocca)
170		0454	Yes	6/19	6/19	6/19/12	Criminal procedure ; evidence; testimony of a vulnerable adult; allow to be presented by videotape or closed-circuit television under certain circumstances. (Sen. M. Nofs)
171		0457	Yes	6/19	6/19	6/19/12	Counties ; employees and officers; establishment of elderly and vulnerable adult death review team; allow county medical examiner to establish and prescribe its powers and duties. (Sen. P. Colbeck)
172		0459	Yes	6/19	6/19	6/19/12	Crimes ; fraud; crime of obtaining signature by fraud and penalties for financial exploitation of vulnerable adults; increase under certain circumstances. (Sen. J. Emmons)
173		0461	Yes	6/19	6/19	10/1/12	Probate ; guardians and conservators; miscellaneous provisions in EPIC regarding legally incapacitated and other protected and vulnerable individuals; revise. (Sen. T. Schuitmaker)
174		0462	Yes	6/19	6/19	6/19/12	Health facilities ; nursing homes; reporting requirements for abuse or neglect in nursing homes; modify. (Sen. S. Bieda)
175		0464	Yes	6/19	6/19	6/19/12	Criminal procedure ; other; development of investigative protocols and abuse and neglect interview protocols for vulnerable adults; require by certain agencies. (Sen. T. Schuitmaker)
176		0466	Yes	6/19	6/19	6/19/12	Law enforcement ; reports; Mozelle senior or vulnerable adult medical alert program; provide for. (Sen. T. Schuitmaker)
177		0468	Yes	6/19	6/19	6/19/12	Criminal procedure ; arrests; complainant's signature requirement to file a criminal complaint in cases alleging vulnerable adult abuse; prohibit magistrate from refusing to accept complaint because signed upon information and belief by individual other than the victim. (Sen. G. Hansen)
178	5130		Yes	6/19	6/19	10/1/12	Food ; service establishments; food services laws and regulations; modify. (Rep. C. Denby)

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	HB	SB					
179		0723	Yes	6/19	6/19	6/19/12	Health facilities; patient directives; peace of mind registry; create, and provide for registration of and access to peace of mind directives. (<i>Sen. J. Marleau</i>)
180	5338		Yes	6/19	6/19	6/19/12 #	Controlled substances; schedules; certain procedures for scheduling controlled substances; revise, and provide criteria for determining whether a substance constitutes an imitation controlled substance. (<i>Rep. E. McBroom</i>)
181	5714		Yes	6/19	6/19	6/19/12 #	Administrative procedure; rules; promulgation of an emergency rule for scheduling certain controlled substances; allow. (<i>Rep. P. Somerville</i>)
182		0789	Yes	6/19	6/19	6/19/12 #	Controlled substances; schedules; certain procedures for scheduling controlled substances; revise. (<i>Sen. R. Jones</i>)
183		1082	Yes	6/19	6/19	7/1/12	Controlled substances; schedules; certain synthetic substances; classify as schedule 1 controlled substances and prohibit sales and offer to sell certain products represented to have the effects of certain controlled substances. (<i>Sen. D. Hildenbrand</i>)
184		0322	Yes	6/14	6/20	6/20/12 #	Property tax; payment and collection; summer collection of certain winter taxes; provide for under certain circumstances. (<i>Sen. D. Hildenbrand</i>)
185		0323	Yes	6/14	6/20	6/20/12 #	Property tax; payment and collection; summer tax collection for municipalities; modify. (<i>Sen. J. Proos</i>)
186		0721	Yes	6/14	6/20	12/18/12	Occupations; business licensing and regulation; purchases of plastic bulk merchandise containers; regulate dealers and transactions. (<i>Sen. R. Jones</i>)
187		0722	Yes	6/14	6/20	6/20/12 #	Criminal procedure; sentencing guidelines; sentencing guidelines for crime of purchasing or selling stolen plastic bulk merchandise containers; provide for. (<i>Sen. J. Marleau</i>)
188		0930	Yes	6/20	6/20	6/20/12 +	Taxation; tobacco; tax administration, enforcement, and distribution; modify. (<i>Sen. R. Kahn</i>)

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	HB	SB					
189		1077	Yes	6/19	6/20	6/20/12	Gaming ; bingo and charitable gaming; raffle license; allow to be issued to a fraternal organization that is not affiliated with a national organization. (<i>Sen. T. Casperson</i>)
190		1090	Yes	6/14	6/20	6/20/12	Environmental protection ; cleanups; compliance with response activity requirements providing for venting groundwater; modify. (<i>Sen. T. Casperson</i>)
191	5573		Yes	6/20	6/20	6/20/12	Townships ; charter; establishment and maintenance of a free public library; revise population threshold. (<i>Rep. A. Forlini</i>)
192	5541		Yes	6/25	6/26	6/26/12	Appropriations ; supplemental; capital outlay supplemental for fiscal year 2011-2012; provide for. (<i>Rep. E. Kowall</i>)
193	5717		Yes	6/26	6/26	6/26/12	Agriculture ; other; agricultural loan program for certain agricultural disasters; provide for. (<i>Rep. R. Franz</i>)
194	5562		Yes	6/25	6/26	7/1/12	Crimes ; crimes against minors; child abuse penalties; enhance, and provide penalties for crimes involving the commission of child abuse in the presence of another child. (<i>Rep. M. Lori</i>)
195	5563		Yes	6/26	6/26	7/1/12 #	Criminal procedure ; sentencing guidelines; sentencing guidelines for crime of first degree and second degree child abuse; revise, and provide penalties for crimes involving the commission of child abuse in the presence of another child. (<i>Rep. J. Graves</i>)
196	4724		Yes	6/26	6/26	6/26/12	Human services ; food assistance; replacement costs for lost or stolen bridge card; clarify. (<i>Rep. B. Genetski</i>)
197		0109	Yes	6/25	6/26	6/26/12	Human services ; services or financial assistance; access to cash benefits from automatic teller machines (ATMs) located in casinos; prohibit. (<i>Sen. R. Jones</i>)
198	4513		Yes	6/26	6/26	6/26/12 #	Education ; attendance; age and date requirement for entering school; revise in school code. (<i>Rep. R. Franz</i>)

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	HB	SB					
199		0316	Yes	6/25	6/26	6/26/12 #	School aid; membership; age and date requirement for entering school and being counted in membership; revise in school aid act. (Sen. D. Booher)
200	5365		Yes	6/26	6/26	6/26/12 +	Appropriations; zero budget; omnibus budget appropriations bill; provide for. (Rep. C. Moss)
201	5372		Yes	6/25	6/26	6/26/12	Appropriations; school aid; fiscal year 2012-2013 omnibus appropriations for school aid, higher education, and community colleges; provide for. (Rep. B. Genetski)
202	5560		Yes	6/25	6/27	9/1/12	Crimes; disorderly conduct; elements for crime of disrupting a religious service; revise, and provide for increased penalties. (Rep. D. Shaughnessy)
203		1034	Yes	6/25	6/27	6/27/12	Vehicles; registration; multiple reinstatements of license suspended for nonpayment of driver responsibility fee; allow under certain circumstances. (Sen. D. Hildenbrand)
204	4455		Yes	6/26	6/27	6/27/12	Insurance; no-fault; duties of the assigned claims facility; transfer to Michigan automobile insurance placement facility and transfer duties regarding self-insurers from the secretary of state to the insurance commissioner. (Rep. D. Shaughnessy)
205	4593		No	6/26	6/27	3/28/13 #	Insurance; essential; use of credit information and credit scoring; regulate. (Rep. B. Giarson)
206	4594		No	6/26	6/27	3/28/13 #	Insurance; essential; use of credit information and credit scoring; regulate. (Rep. P. Opsommer)
207	4595		No	6/26	6/27	3/28/13 #	Insurance; essential; use of credit information and credit scoring; regulate. (Rep. D. Shaughnessy)
208	4596		No	6/26	6/27	3/28/13 #	Insurance; essential; use of credit information and credit scoring; regulate. (Rep. L. Howze)

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	HB	SB					
209	5131		Yes	6/26	6/27	6/27/12	Health ; <i>pharmaceuticals</i> ; duties of prescribers and agents; clarify, and modify certain pharmacy practices regarding the electronic transmission of prescriptions. (Rep. L. Liss)
210	5441		Yes	6/26	6/27	10/1/12	Probate ; <i>guardians and conservators</i> ; duties of guardian ad litem; revise. (Rep. H. Hughes)
211	5543		Yes	6/26	6/27	6/27/12	Taxation ; <i>administration</i> ; effect of filing a return; clarify. (Rep. A. Pscholka)
212	5611		Yes	6/26	6/27	6/27/12	Liquor ; <i>licenses</i> ; sale of alcohol at certain sporting events held at a university's outdoor stadium; allow. (Rep. M. Ouimet)
213	5660		Yes	6/25	6/27	6/27/12	Trade ; <i>containers</i> ; biodegradable containers and certain containers made of aluminum and plastic or paper; exempt from bottle deposit. (Rep. J. Stamas)
214	5408		Yes	6/25	6/28	6/28/12	Insurance ; <i>health care corporations</i> ; denial of coverage for telemedicine services; prohibit. (Rep. G. Haines)
215	5421		Yes	6/25	6/28	6/28/12	Insurance ; <i>health</i> ; denial of coverage for telemedicine services; prohibit. (Rep. M. Lori)
216		1094	Yes	6/27	6/28	1/1/13	Employment security ; <i>benefits</i> ; eligibility when receiving reduced wages under a shared-work plan; allow. (Sen. B. Caswell)
217		1104	Yes	6/25	6/28	6/28/12	Income tax ; <i>collections</i> ; withholding requirements for certain qualified charitable gift annuities and for flow-through entities; clarify. (Sen. M. Jansen)
218		1106	Yes	6/27	6/28	6/28/12	Employment security ; <i>benefits</i> ; eligibility restrictions that apply to family members of certain business owners; remove. (Sen. B. Caswell)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
219		1107	Yes	6/25	6/28	6/28/12	Employment security ; reports; look-back period in reporting for professional employer organization; modify. (<i>Sen. J. Brandenburg</i>)
220	5340		Yes	6/26	6/28	6/28/12	Property tax ; tax tribunal; judgment interest rate; revise. (<i>Rep. J. Gilbert</i>)
221	5477		Yes	6/28	6/28	6/28/12	State financing and management ; funds; 21st century jobs trust fund; modify. (<i>Rep. W. Schmidt</i>)
222	5646		Yes	6/28	6/28	6/28/12	Economic development ; other; exemption of certain parcels from the eligible tax reverted property specific tax; provide for. (<i>Rep. W. Schmidt</i>)
223	5699		Yes	6/27	6/29	6/29/12	Income tax ; rate; rate reduction; begin on October 1, 2012. (<i>Rep. E. McBroom</i>)
224	5700		Yes	6/28	6/29	6/29/12	Income tax ; exemptions; personal exemption; increase. (<i>Rep. H. Hughes</i>)
225		0351	Yes	6/25	6/29	6/29/12	Sales tax ; distribution; percentage of sales tax collected on motor fuel to be earmarked to transportation funding in 2013; establish. (<i>Sen. J. Proos</i>)
226	4025		Yes	6/25	6/29	6/29/12	Sales tax ; distribution; distribution of certain revenue from aviation fuel to be earmarked into the state aeronautics fund; provide for. (<i>Rep. D. Agema</i>)
227	5044		Yes	6/26	6/29	6/29/12	Highways ; name; portion of I-94; designate as the "Auxiliary Lieutenant Dan Kromer Memorial Highway". (<i>Rep. D. Geiss</i>)
228	5045		Yes	6/26	6/29	6/29/12	Highways ; name; portion of US-24; designate as the "Corporal Matthew Edwards Memorial Highway". (<i>Rep. D. Geiss</i>)

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2012 Michigan Public Acts Table

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	HB	SB					
229	5142		Yes	6/26	6/29	6/29/12	Economic development ; corridor improvement; certain joint authorities; provide for. (Rep. M. Ouimet)
230	5158		Yes	6/26	6/29	6/29/12	State financing and management ; other; audits of contract expenditures for organizations that provide service contract for the state; provide for. (Rep. A. Forlini)
231	5228		Yes	6/26	6/29	6/29/12	Transportation ; carriers; applicability of motor carrier safety act of 1963 to certain commercial vehicles; revise to exclude commercial vehicles weighing under 26,001 pounds. (Rep. G. MacMaster)
232	5287		Yes	6/26	6/29	6/29/12	Education ; financing; investments in certain deposit accounts; authorize, and provide school operating tax exemption for property occupied by a public school academy. (Rep. M. Knollenberg)
233	5553		Yes	6/25	6/29	6/29/12	State financing and management ; budget; statewide single audit; implement. (Rep. C. Denby)
234	5609		Yes	6/26	6/29	6/29/12	Property tax ; delinquent taxes; personal liability for delinquent taxes levied on real property; provide for under certain circumstances. (Rep. M. Huuki)
235		0543	Yes	6/25	6/29	6/29/12	Counties ; boards and commissions; membership on county department of veterans' affairs; modify eligibility criteria. (Sen. J. Brandenburg)
236		0871	Yes	6/29	6/29	6/29/12	Appropriations ; zero budget; supplemental appropriations; provide for fiscal year 2011-2012. (Sen. R. Kahn)
237		1044	Yes	6/25	6/29	6/29/12	State financing and management ; other; sale or exchange of surplus personal property; modify. (Sen. J. Proos)
238		1085	Yes	6/26	6/29	6/29/12	Labor ; fair employment practices; fair and open competition in government contracts act; clarify that the state is acting as a market participant in restricting certain contract requirements. (Sen. J. Moolenaar)

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	HB	SB					
239		1146	Yes	6/25	6/29	6/29/12	Vehicles; historic ; use of historic vehicles during the month of August; designate as exhibition. (<i>Sen. M. Kowall</i>)
240		0248	Yes	6/28	7/2	7/2/12	Natural resources; land acquisition ; DNR land holdings; limit, and require purchases and sales to be based on strategic plan. (<i>Sen. T. Casperson</i>)
241		0717	Yes	6/25	7/2	7/2/12	Natural resources; hunting ; hunters helping farmers program; create. (<i>Sen. J. Proos</i>)
242		0760	Yes	6/25	7/2	1/1/13 #	Weapons; firearms ; definition of pistol; modify, and provide for a grandfather clause under certain circumstances. (<i>Sen. M. Green</i>)
243		0761	Yes	6/25	7/2	1/1/13 #	Weapons; firearms ; definition of pistol; modify. (<i>Sen. M. Kowall</i>)
244		0762	Yes	6/25	7/2	1/1/13 #	Weapons; firearms ; definition of pistol; modify. (<i>Sen. D. Robertson</i>)
245		0897	Yes	6/25	7/2	7/2/12	Natural resources; fishing ; crossbows for fishing; allow department of natural resources to issue order allowing the use of. (<i>Sen. D. Booher</i>)
246		1045	Yes	6/25	7/2	7/2/12	Natural resources; hunting ; disabled individual hunting on a licensed game bird hunting preserve; allow to possess a firearm in certain motorized vehicles. (<i>Sen. J. Gleason</i>)
247		1052	Yes	6/25	7/2	7/2/12	Natural resources; shorelands ; beach grooming; allow under certain circumstances. (<i>Sen. T. Casperson</i>)
248	4913		Yes	6/25	7/2	7/2/12	Property tax; classification ; requirements to withdraw commercial forestland from ad valorem property tax; modify. (<i>Rep. F. Foster</i>)

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	HB	SB					
249	5164		Yes	6/25	7/2	7/2/12	Watercraft ; <i>other</i> ; livery boats; exclude nonmotorized rafts and boats used by dwelling-renters from definition, exclude nonmotorized canoes and kayaks from inspection requirement, and revise fees for inspection of boats used on certain navigable waters. (Rep. P. Pettalia)
250	5226		Yes	6/25	7/2	7/2/12	Children ; <i>foster care</i> ; criteria for eligibility in the mentored youth hunting program; clarify. (Rep. H. Haugh)
251	5414		Yes	6/25	7/2	7/2/12	Natural resources ; <i>other</i> ; dark sky preserve program; expand. (Rep. F. Foster)
252	5424		Yes	6/26	7/2	7/2/12	Traffic control ; <i>traffic regulation</i> ; axle weight variance for trucks hauling farm products; allow under certain circumstances. (Rep. L. Lyons)
253	5595		Yes	6/26	7/2	7/2/12 #	Agriculture ; <i>weights and measures</i> ; uniform standards and regulations; modify. (Rep. C. Brunner)
254	5596		Yes	6/26	7/2	7/2/12 #	Agriculture ; <i>weights and measures</i> ; uniform standards and regulations; modify. (Rep. K. Daley)
255		0551	Yes	6/26	7/2	7/2/12	Crimes ; <i>other</i> ; possession or use of cellular telephone or wireless device by prisoner in correctional facility; prohibit, and provide for confiscation and disposal of those cellular telephones and wireless devices. (Sen. G. Hansen)
256		0552	Yes	6/26	7/2	7/2/12	Crimes ; <i>other</i> ; distribution, possession, or use of cellular telephone or other wireless communication device in a jail; prohibit, and provide for confiscation and disposal of those cellular telephones and wireless devices. (Sen. G. Hansen)
257		0193	Yes	6/25	7/2	7/2/12	Explosives ; <i>licensing</i> ; Michigan fireworks safety act; amend to provide for additional regulatory sanctions. (Sen. R. Jones)
258		0853	Yes	6/25	7/2	7/2/12	Vehicles ; <i>driver training</i> ; fingerprint and criminal history record information requirements under driver education provider and instructor act; revise, and reduce hours of behind-the-wheel training required under certain circumstances. (Sen. J. Emmons)

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	HB	SB					
259		0861	Yes	6/25	7/2	7/2/12	Corrections; alternatives ; sunset for boot camp program; eliminate. (Sen. R. Jones)
260	5468		Yes	6/26	7/2	1/1/13	Communications; telecommunications ; collection of 9 -1-1 surcharge on prepaid wireless communication devices; modify. (Rep. A. Nesbitt)
261	5658		Yes	6/26	7/2	7/2/12	Corrections; other ; use of prison labor by private contractor; allow under certain circumstances. (Rep. J. Haveman)
262	4146		Yes	6/25	7/2	7/2/12	Vehicles; equipment ; warning lights on commercial snow removal vehicles; require under certain circumstances. (Rep. J. Gilbert)
263		1030	Yes	6/25	7/3	7/3/12	Traffic control; traffic regulation ; certain requirements for stopping for school bus; revise. (Sen. B. Caswell)
264		0570	Yes	6/25	7/3	7/3/12	Construction; code ; log walls; permit in residential buildings under certain conditions. (Sen. M. Green)
265		0698	Yes	6/25	7/3	7/3/12	Family law; marriage and divorce ; persons authorized to solemnize marriage; allow district judges, district court magistrates, and probate judges to perform marriages anywhere in the state. (Sen. G. Hansen)
266		0699	Yes	6/25	7/3	7/3/12 #	Courts; probate court ; fee charged by probate judge to perform marriages; authorize, and require fee to be paid to probate court in county where ceremony is performed. (Sen. G. Hansen)
267		0700	Yes	6/25	7/3	7/3/12 #	Courts; district court ; fee charged by district judges and magistrates to perform marriages; authorize state court administrative office to set fee and require fee to be paid to district court in the district where wedding is performed. (Sen. G. Hansen)
268		0783	Yes	6/25	7/3	7/3/12	Torts; nonmedical malpractice ; certified public accountants; modify protection from liability to nonclients. (Sen. T. Schuitmaker)

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	HB	SB					
269		0995	Yes	6/25	7/3	7/3/12	Health facilities; emergency medical services; amount of liability coverage required for certain hospital aircraft transport vehicles; modify. (Sen. H. Walker)
270		0751	Yes	7/2	7/3	8/15/12	Elections; qualified voter file; active and inactive qualified voter files; create, require ballot tracker program to be used by local governments, and require the secretary of state to send notice to an elector when receiving a surrendered state driver license of that elector. (Sen. D. Robertson)
271	5062		Yes	6/27	7/3	8/15/12	Elections; other; postelection audits and continuing election education programs; add to the Michigan election law and make other miscellaneous changes to the Michigan election law. (Rep. A. Forlini)
272		0752	Yes	7/2	7/3	7/3/12	Elections; other; absent voting counting board; revise procedure, and require minor political parties to provide notice of county caucus or state convention to nominate candidates. (Sen. G. Hansen)
273	5059		Yes	6/27	7/3	12/30/12 #	Campaign finance; statements and reports; ballot question and political party committee filing requirements; modify. (Rep. S. Tyler)
274		0753	Yes	6/27	7/3	12/30/12	Criminal procedure; sentencing guidelines; sentencing guidelines for certain campaign finance crimes; create. (Sen. J. Brandenburg)
275	5058		Yes	6/27	7/3	1/1/13	Campaign finance; contributions and expenditures; expenditures by candidate committees to defend certain officials in criminal or civil actions; limit. (Rep. M. Knollenberg)
276		0823	Yes	6/27	7/3	8/16/12	Elections; other; general amendments; provide for. (Sen. D. Robertson)
277		0824	Yes	6/28	7/3	7/3/12	Campaign finance; campaign practices; multisection revisions; provide for. (Sen. D. Robertson)
278		0825	Yes	6/27	7/3	8/15/12 #	Criminal procedure; sentencing guidelines; sentencing guidelines for certain Michigan election law violations; enact. (Sen. D. Robertson)

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	HB	SB					
279	5297		Yes	6/26	7/3	8/15/12	Elections ; <i>absent voters</i> ; federal write-in absentee ballot; expand to include state and local candidates and ballot questions, and include certain reporting requirements for local clerks. (Rep. R. Outman)
280	4656		No	6/26	7/3	3/28/13	Elections ; <i>campaign practices</i> ; prohibition for politicians' names to be attached to certain election-related materials sent to voters; provide for. (Rep. A. Forlini)
281	4723		Yes	7/5	7/5	7/5/12	Human services ; <i>food assistance</i> ; issuance of bridge card to inmates; prohibit. (Rep. B. Genetski)
282		0582	Yes	7/5	7/5	7/5/12	Vehicles ; <i>trucks</i> ; permissible weight of certain truck and trailer combinations used to transport boats from the manufacturer; increase. (Sen. T. Casperson)
283	5364		Yes	8/1	8/1	8/1/12	Appropriations ; <i>supplemental</i> ; capital outlay supplemental to provide appropriations from the Michigan natural resources trust fund; provide for. (Rep. E. Kowall)
284	5566		Yes	8/1	8/1	8/1/12 #	Local government ; <i>other</i> ; authorized loan amounts under the emergency municipal loan act; revise, and make other general revisions. (Rep. C. Denby)
285	5567		Yes	8/1	8/1	8/1/12 #	Education ; <i>financing</i> ; permissible uses for school operating millages and repayment of hardship advances and emergency loans; amend revised school code regarding. (Rep. A. Pscholka)
286	5568		Yes	8/1	8/1	8/1/12 #	School aid ; <i>other</i> ; provisions regarding hardship advances and repayment of emergency loans; amend state school aid act to provide for. (Rep. H. Hughes)
287	5569		Yes	8/1	8/1	8/1/12 #	State financing and management ; <i>funds</i> ; disposition of surplus funds from emergency municipal loan act; clarify. (Rep. M. Ouimet)
288	5570		Yes	8/1	8/1	8/1/12 #	State financing and management ; <i>bonds</i> ; municipal bond authority; allow to create an emergency loan board loan. (Rep. B. Rogers)

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	HB	SB					
289	4718		Yes	8/1	8/1	8/1/12	Occupations ; dental hygienists; supervision of assistants during certain procedures; authorize. (Rep. E. Kowall)
290	5246		Yes	8/1	8/1	8/1/12	Economic development ; local development financing; number of smart zones; increase. (Rep. W. Schmidt)
291	5572		No	8/1	8/1	3/28/13	Human services ; other; support for certain voluntary home visiting programs for primarily new and expectant families; clarify. (Rep. L. Lyons)
292	5577		Yes	8/1	8/1	8/1/12	State ; escheats; uniform unclaimed property act; modify look-back period to 5 years. (Rep. A. Nesbitt)
293		0601	Yes	8/1	8/1	8/1/12	Gaming ; lottery; sale of advertising on club keno lottery games; allow, and earmark revenues. (Sen. M. Kowall)
294		0821	Yes	8/1	8/1	8/1/12	Watercraft ; other; boat liveries; require additional information on application for permit, revise definition of navigable water livery boat, and sunset land acquisition cap upon legislative adoption of strategic plan. (Sen. J. Moolenaar)
295		1160	Yes	8/1	8/1	8/1/12	State financing and management ; funds; homeowner protection fund; establish to receive money from consent judgment with mortgage loan servicers. (Sen. T. Casperson)
296	5015		Yes	8/1	8/1	8/1/12	Appropriations ; supplemental; multidepartment supplemental; provide for fiscal year 2011-2012. (Rep. C. Moss)
297		1130	Yes	8/7	8/7	8/7/12	Natural resources ; sand dunes; local ordinances more protective of dunes; preempt and require impact that is significant and unreasonable on a local-unit-wide basis to justify denial of permit or variance, limit right to request formal hearing to applicant and adjacent landowner, place burden of proof on department, and require issuance of permits for driveways and accessibility measures under certain circumstances. (Sen. A. Meekhof)
298	5007		Yes	8/23	8/23	8/23/12	Transportation ; funds; financial performance audits; require of the department of treasury. (Rep. P. Somerville)

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	HB	SB					
299	5146		Yes	8/23	8/23	1/1/06	Use tax; collections; tax for use or consumption for a manufacturer that affixes a product to real estate; clarify. (Rep. P. MacGregor)
300		1040	Yes	9/4	9/4	9/4/12	Retirement; public school employees; member contributions; increase contribution to member investment plan and require all Tier 1 members to contribute at least 5% of compensation. (Sen. R. Kahn)
301	5452		Yes	9/25	9/25	9/25/12	Natural resources; fishing; prohibition on spearing fish in Houghton lake; repeal. (Rep. B. Rendon)
302	5154		No	9/25	9/25	3/28/13	Probate; trusts; uniform principal and income act; modify. (Rep. J. Walsh)
303	5237		Yes	9/25	9/25	9/25/12	Probate; wills and estates; administration and distribution of estates of decedents who die after December 31, 2009 and before January 1, 2011; modify. (Rep. M. Ouimet)
304	5592		Yes	9/25	9/25	9/25/12	Civil procedure; garnishment; effective period for writ of wage garnishment; extend. (Rep. M. Lane)
305	5400		Yes	9/30	10/1	10/1/12	Appropriations; zero budget; multidepartment supplemental appropriations; provide for fiscal year 2012-2013. (Rep. C. Moss)
306		0809	Yes	9/30	10/1	10/1/12	Traffic control; other; eligibility for sobriety court; clarify, extend the license revocation period for certain convictions, and amend certain provisions concerning the possession or transport of open alcoholic liquor container in a vehicle. (Sen. T. Schuitmaker)
307		1258	Yes	9/30	10/1	10/1/12	Trade; securities; filing fees for registration under uniform securities act; revise. (Sen. M. Jansen)
308		1259	Yes	9/30	10/1	10/1/12	Occupations; licensing fees; licensing and regulation fund; establish, and revise fees for various professions. (Sen. M. Jansen)

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	HB	SB					
309	5819		Yes	9/30	10/1	10/1/12	Businesses; nonprofit corporations; fees for filing certain reports; revise, and waive fees for certain veterans. (Rep. A. Pscholka)
310	5820		Yes	9/30	10/1	10/1/12	Businesses; limited liability companies; annual statement of resident agent and registered office fee; revise. (Rep. A. Pscholka)
311	5821		Yes	9/30	10/1	10/1/12	Occupations; licensing fees; licensing, examination, and reinstatement fee for plumbers and plumbing contractors; revise. (Rep. A. Pscholka)
312	5822		Yes	9/30	10/1	10/1/12	Occupations; licensing fees; examination and license fees for mechanical contractors; revise. (Rep. A. Pscholka)
313	5823		Yes	9/30	10/1	10/1/12	Occupations; licensing fees; license and examinations; fees for electricians and electrical contractors; revise. (Rep. A. Pscholka)
314	5824		Yes	9/30	10/1	10/1/12	Occupations; licensing fees; registration fee for building officials and inspectors; revise. (Rep. A. Pscholka)
315	5893		Yes	9/30	10/1	10/1/12	Businesses; business corporations; annual report fee; revise. (Rep. A. Pscholka)
316	5581		Yes	9/30	10/1	10/1/12	Agriculture; pesticides; pesticide applicator fee; extend sunset. (Rep. P. Potvin)
317	5784		Yes	9/30	10/1	10/1/12	Agriculture; animals; livestock dealers act; modify. (Rep. B. Glardon)
318	5793		Yes	9/30	10/1	10/1/12	Law enforcement; fingerprinting; processing fees for fingerprinting and criminal record checks; extend sunset. (Rep. C. Moss)

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	HB	SB					
319		1109	Yes	9/30	10/1	10/1/12	Criminal procedure ; sentencing; sentencing of certain habitual offenders; modify. (Sen. R. Jones)
320		0637	No	10/5	10/5	3/28/13 #	Education ; school districts; certain display of United States flag in public school; require. (Sen. R. Kahn)
321	4934		Yes	10/5	10/5	10/5/12 #	Education ; school districts; opportunity for students to recite the "Pledge of Allegiance" in public schools each school day; require. (Rep. K. Cotter)
322		0884	Yes	10/9	10/9	10/9/12	Health facilities ; nursing homes; nursing home survey process; modify. (Sen. G. Hansen)
323		0388	Yes	10/9	10/9	1/1/13	Criminal procedure ; sentencing guidelines; sentencing guidelines for crime of fleeing and eluding a peace officer; revise crime class to increase minimum sentence ranges. (Sen. J. Gleason)
324		0990	Yes	10/9	10/9	10/9/12	Property tax ; principal residence exemption; individual moving into assisted living facility; allow to retain principal residence exemption and clarify contiguity requirement. (Sen. B. Caswell)
325		1004	Yes	10/9	10/9	10/9/12	Taxation ; tobacco; cap on cigar tax and certain notices; provide for. (Sen. A. Meekhof)
326		1123	Yes	10/9	10/9	10/9/12	Housing ; housing development authority; authority to make, purchase, or participate in certain loans; grant. (Sen. M. Jansen)
327		1124	Yes	10/9	10/9	10/9/12	Housing ; housing development authority; escrow accounts in which authority funds are held; define. (Sen. M. Jansen)
328		1125	Yes	10/9	10/9	10/9/12	Housing ; housing development authority; limit on principal amount of bonds and notes; increase. (Sen. M. Kowall)

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	HB	SB					
329		1129	Yes	10/9	10/9	10/9/12	State financing and management ; bonds; certain types of bonds; provide for. (<i>Sen. P. Colbeck</i>)
330	5431		Yes	10/16	10/16	1/1/13	Crimes ; other; false report of medical or other emergency; prohibit and provide for a penalty and reimbursement of certain expenses. (<i>Rep. K. Heise</i>)
331	5432		Yes	10/15	10/16	1/1/13 #	Criminal procedure ; other; reimbursement of certain expenses resulting from false reports of medical and other emergencies; provide for. (<i>Rep. P. Somerville</i>)
332	5433		Yes	10/16	10/16	1/1/13 #	Criminal procedure ; sentencing guidelines; sentencing guidelines for crime of making false report of medical or other emergency; enact. (<i>Rep. K. Cotter</i>)
333	5128		Yes	10/16	10/16	1/1/13	Courts ; other; business court; create. (<i>Rep. J. Walsh</i>)
334	5159		Yes	10/16	10/16	10/16/12 #	Courts ; circuit court; veterans treatment court; provide for the state drug treatment court advisory committee to monitor. (<i>Rep. W. Schmidt</i>)
335	5162		Yes	10/16	10/16	10/16/12 #	Courts ; circuit court; veterans treatment court; create. (<i>Rep. K. Damrow</i>)
336	4928		Yes	10/16	10/16	10/16/12	Property ; other; affidavits to correct errors or omissions relating to previously recorded documents; allow. (<i>Rep. K. Cotter</i>)
337	5053		Yes	10/16	10/16	10/16/12	Natural resources ; fishing; export of live minnows, wigglers, or crayfish as bait; allow. (<i>Rep. M. Shirkey</i>)
338	5124		Yes	10/16	10/16	1/1/13	Courts ; circuit court; concurrent jurisdiction in certain courts; establish. (<i>Rep. K. Cotter</i>)

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- Tie bar.

2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
339	5292		Yes	10/16	10/16	3/1/13	Natural resources; fishing; waiver of fishing and hunting license fees for disabled veterans; provide for. (Rep. H. Hughes)
340	5322		Yes	10/16	10/16	10/16/12	Natural resources; hunting; individual at sporting clays range; allow to transport or possess a firearm in a vehicle. (Rep. K. Heise)
341	5391		No	10/16	10/16	3/28/13	Transportation; other; fingerprinting of applicants or licensees in public transit system; allow. (Rep. M. Huuki)
342		1122	No	10/23	10/23	3/28/13 #	Health; children; youth athletes; require department to develop educational materials and training program regarding concussions in athletes and their return to athletic activity. (Sen. J. Proos)
343	5697		No	10/23	10/23	3/28/13 #	Health; children; concussion protocols regarding youth athletes; require compliance with by certain entities that sponsor athletic events. (Rep. T. Hooker)
344	5617		Yes	11/7	11/7	11/7/12	Housing; housing development authority; eligibility for certain residential loans; modify income requirement. (Rep. D. Zorn)
345	5618		Yes	11/7	11/7	11/7/12	Housing; housing development authority; requirement that multifamily housing project be located in eligible distressed area; eliminate as condition for certain loans. (Rep. D. Shaughnessy)
346	5620		Yes	11/7	11/7	11/7/12	Housing; housing development authority; mortgage credit certificate program; revise eligibility. (Rep. W. Schmidt)
347		0797	No	12/5	12/5	3/28/13	Retirement; investments; investment of assets of public employee retirement systems; clarify regarding professional education and training, including travel, for board members, specify procedures for removal of board members, and update definitions regarding global securities. (Sen. M. Jansen)
348		0116	No	12/11	12/11	3/28/13	Labor; collective bargaining; requirement for agency fee for nonunion members; prohibit in bargaining agreements and as a condition of employment in the private sector. (Sen. A. Meekhof)

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2012 Michigan Public Acts Table

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	HB	SB					
349	4003		No	12/11	12/11	3/28/13	Labor ; <i>public service employment</i> ; requirement for agency fee for nonunion members; prohibit in bargaining agreements and as a condition of employment. (Rep. P. Opsommer)
350		0356	Yes	12/12	12/13	12/13/12	Crimes ; <i>animals</i> ; forfeiture of real property used in the commission of animal fighting; allow. (Sen. R. Jones)
351		0358	Yes	12/12	12/13	12/13/12	Crimes ; <i>animals</i> ; racketeering statute; include animal fighting as predicate offense. (Sen. S. Bieda)
352	5789		Yes	12/12	12/13	12/13/12	Civil procedure ; <i>civil actions</i> ; property on which animal fighting is conducted; declare to be a nuisance. (Rep. A. LaFontaine)
353	5284		Yes	12/12	12/13	1/1/13	Crimes ; <i>computer</i> ; definition of computer; expand to include certain electronic communication devices. (Rep. J. Walsh)
354		0402	Yes	12/12	12/13	12/13/12 #	Occupations ; <i>physicians</i> ; voluntary reporting to secretary of state patients with conditions that affect ability to operate a motor vehicle; allow, and provide for immunity. (Sen. T. Schuitmaker)
355		0403	Yes	12/12	12/13	12/13/12 #	Traffic control ; <i>driver license</i> ; examination regarding existence of certain medical condition affecting applicant's ability to operate safely; revise and clarify. (Sen. T. Schuitmaker)
356		0564	No	12/12	12/13	3/28/13	Human services ; <i>medical services</i> ; premiums for medicaid "freedom to work" program; modify. (Sen. T. Schuitmaker)
357		1001	No	12/12	12/13	3/28/13	Family law ; <i>child support</i> ; fee for collecting and processing child support withholdings; provide for. (Sen. B. Caswell)
358		1108	Yes	12/12	12/13	12/13/12	Businesses ; <i>other</i> ; business development enterprises; authorize under Michigan BIDCO act. (Sen. D. Booher)

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	HB	SB					
359		1360	Yes	12/14	12/14	12/14/12	Retirement ; public school employees; deadline to elect pension contribution limits; extend. (<i>Sen. R. Kahn</i>)
360		0688	No	12/13	12/14	4/1/13 #	Crimes ; perjury; unsworn declaration made under penalty of perjury; include as a statement punishable as perjury. (<i>Sen. T. Schuitmaker</i>)
361		0689	No	12/13	12/14	4/1/13 #	Civil procedure ; evidence; uniform unsworn foreign declarations act; create. (<i>Sen. T. Schuitmaker</i>)
362		0707	No	12/13	12/14	4/1/13	Civil procedure ; discovery; uniform interstate depositions and discovery act; adopt. (<i>Sen. T. Schuitmaker</i>)
363		0726	No	12/14	12/14	3/28/13	Criminal procedure ; statute of limitations; statute of limitations for certain crimes; revise. (<i>Sen. R. Jones</i>)
364		0845	No	12/14	12/14	4/1/13	Criminal procedure ; sentencing; penalties for domestic violence with prior conviction; allow to be enhanced with a deferred and dismissed conviction. (<i>Sen. R. Jones</i>)
365		0846	No	12/14	12/14	4/1/13 #	Criminal procedure ; sentencing guidelines; sentencing guidelines for crime of domestic violence with prior conviction; enact. (<i>Sen. T. Rocca</i>)
366		0847	No	12/14	12/14	4/1/13	Crimes ; penalties; crimes of domestic violence assault with prior offenses; increase penalties. (<i>Sen. T. Schuitmaker</i>)
367		0848	No	12/14	12/14	4/1/13	Crimes ; other; assault by strangulation or suffocation as assault with intent to do great bodily harm less than murder; specify. (<i>Sen. S. Bieda</i>)
368		0862	Yes	12/14	12/14	12/14/12	Property tax ; assessments; certain property deemed qualified agricultural property for purposes of assessment; allow for all contiguous property owned by the landowner to also be deemed agricultural. (<i>Sen. B. Caswell</i>)

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	HB	SB					
369		0901	No	12/14	12/14	7/1/13 #	Civil procedure; alternate dispute resolution; condominium act; revise arbitration provisions to reflect adoption of uniform arbitration act. (Sen. T. Schuitmaker)
370		0902	No	12/14	12/14	7/1/13 #	Civil procedure; alternate dispute resolution; arbitration; make arbitration provisions of the revised judicature act subject to uniform arbitration act. (Sen. T. Schuitmaker)
371		0903	No	12/14	12/14	7/1/13 #	Civil procedure; alternate dispute resolution; uniform arbitration act; enact. (Sen. T. Schuitmaker)
372		0934	No	12/14	12/14	4/1/13	Crimes; criminal sexual conduct; sexual penetration or contact of a foster child regardless of age by certain care providers; prohibit during residency. (Sen. R. Jones)
373		1039	Yes	12/14	12/14	12/14/12	Property; conveyances; certain state-owned property located in Jackson county; exchange for certain privately owned property. (Sen. M. Nofs)
374		1056	Yes	12/14	12/14	12/14/12	Law enforcement; fingerprinting; criminal identification and records; expand to include biometric data. (Sen. R. Jones)
375		1195	No	12/14	12/14	3/28/13 #	Mental health; code; entities to hold a medicaid specialty services contract; clarify. (Sen. B. Caswell)
376		1196	No	12/14	12/14	3/28/13	Mental health; community mental health; board membership on certain community mental health services board; revise, and establish as a community mental health authority. (Sen. B. Caswell)
377	5225		Yes	12/18	12/18	12/18/12	Weapons; firearms; certain procedures for purchase and possession of pistols; revise. (Rep. P. Opsommer)
378		0984	Yes	12/18	12/18	12/18/12	Weapons; firearms; procedures for out-of-state purchase of rifles and shotguns; clarify. (Sen. T. Casperson)

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	HB	SB					
379	5582		Yes	12/18	12/19	12/19/12	Occupations; electricians; use of certain military experience as the basis for licensure; authorize. (Rep. G. Haines)
380	5583		Yes	12/18	12/19	12/19/12	Occupations; plumbers; use of certain military experience as the basis for licensure; authorize. (Rep. M. Ouimet)
381	4096		Yes	12/18	12/19	12/19/12	State financing and management; purchasing; searchable database listing of all state expenditures; create. (Rep. K. Cotter)
382	4860		Yes	12/18	12/19	12/19/12	Property tax; assessments; penalty for failure to notify assessing office of transfer of ownership of property; modify. (Rep. J. Stamas)
383	5089		No	12/18	12/19	3/28/13 #	Health; pharmaceuticals; unused prescription drug repository and distribution program; create, establish duties relating to the program, provide immunity under certain circumstances, and require the promulgation of rules. (Rep. J. Johnson)
384	5090		No	12/18	12/19	3/28/13 #	Health; pharmaceuticals; acceptance and destruction or disposal of drugs or medications not eligible for distribution; require. (Rep. J. Ananich)
385	5096		Yes	12/18	12/19	12/19/12	Children; adoption; surrendered adoptees obtaining certain identifying information; prohibit. (Rep. A. Price)
386	5097		Yes	12/18	12/19	12/19/12	Children; parental rights; provision relating to parent who voluntarily surrendered a child to an emergency service provider; eliminate. (Rep. A. Price)
387		0909	Yes	12/19	12/19	12/19/12	Transportation; other; regional transit authority; establish. (Sen. T. Casperson)
388		0911	No	12/19	12/19	3/28/13 #	Vehicles; registration; optional registration taxes for regional transit authority; allow. (Sen. B. Johnson)

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	HB	SB					
389		0912	No	12/19	12/19	3/28/13 #	Land use; zoning and growth management; Michigan zoning enabling act; amend to exempt regional transit authority public transit facilities from local zoning ordinances or regulations. (Sen. B. Johnson)
390		0967	No	12/19	12/19	3/28/13 #	Transportation; other; state rights-of-way on state roads; allow dedication of lanes for public transit. (Sen. V. Smith)
391		0445	Yes	12/19	12/19	12/19/12 #	Transportation; funds; funding for a regional transit authority; provide for. (Sen. R. Warren)
392	5688		Yes	12/19	12/19	12/19/12 #	Local government; authorities; municipal lighting authority act; create. (Rep. M. Stapleton)
393	5705		Yes	12/19	12/19	12/19/12 #	Taxation; utility users; city utility users tax act; amend to allow portion of tax to be used to fund public lighting. (Rep. J. Walsh)
394		0970	Yes	12/19	12/19	12/19/12 #	Income tax; city; rollback and maximum tax rate for residents and nonresidents within certain cities; eliminate rollback and reduce rate under certain circumstances. (Sen. B. Johnson)
395	5926		Yes	12/19	12/19	12/19/12	Economic development; Michigan strategic fund; community revitalization program; clarify eligible investment definition, allow multiple applicants, and revise disbursement schedule. (Rep. B. Jacobsen)
396	5463		Yes	12/19	12/19	12/19/12	Economic development; downtown development authorities; bylaws of authorities and taxable status; modify. (Rep. J. Walsh)
397		1065	No	12/20	12/20	3/28/13	Economic development; plant rehabilitation; eligible manufacturing personal property abatement; extend. (Sen. J. Brandenburg)
398		1066	No	12/20	12/20	3/28/13	Economic development; other; eligible manufacturing personal property abatement for technology parks; extend. (Sen. D. Robertson)

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	HB	SB					
399		1067	No	12/20	12/20	3/28/13	Property tax; exemptions ; existing exemptions for industrial personal property; continue. (Sen. B. Caswell)
400		1068	No	12/20	12/20	3/28/13	Economic development; enterprise zones ; eligible manufacturing personal property abatement; extend. (Sen. D. Robertson)
401		1069	No	12/20	12/20	3/28/13	Property tax; personal property ; new industrial personal property; exempt. (Sen. D. Hildenbrand)
402		1070	No	12/20	12/20	3/28/13	Property tax; personal property ; less than certain value; exempt. (Sen. M. Nofs)
403		1071	Yes	12/20	12/20	3/28/13	Property tax; personal property ; industrial personal property; exempt. (Sen. M. Nofs)
404	6022		No	12/20	12/20	pending	Taxation; other ; duties and responsibilities of certain authorities; transfer and modify. (Rep. J. Gilbert)
405	6023		Yes	12/20	12/20	10/1/11	Michigan business tax; revenue distribution ; revenue earmarked into the school aid fund; sunset after fiscal year 2010-2011. (Rep. J. Gilbert)
406	6024		No	12/20	12/20	pending	Property tax; special assessments ; essential services assessment; provide for. (Rep. J. Gilbert)
407	6025		No	12/20	12/20	pending	Taxation; other ; statewide metropolitan authority; create. (Rep. J. Gilbert)
408	6026		No	12/20	12/20	pending	Use tax; rate ; division between state component and metropolitan authority's component; provide for, and direct distribution. (Rep. J. Gilbert)

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2012 Michigan Public Acts Table

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	HB	SB					
409	6007		Yes	12/20	12/20	12/20/12 #	Property tax; exemptions; property taxes; exempt certain mineral producing property. (Rep. M. Huuki)
410	6008		Yes	12/20	12/20	12/20/12 #	Taxation; severance; nonferrous metallic minerals extraction severance tax; enact. (Rep. M. Huuki)
411	6009		Yes	12/20	12/20	12/20/12 #	Natural resources; mining; rural development fund; create. (Rep. M. Huuki)
412	6010		Yes	12/20	12/20	12/20/12 #	Sales tax; exemptions; tax exemption for certain mining property; provide for. (Rep. M. Huuki)
413	6011		Yes	12/20	12/20	12/20/12 #	Use tax; exemptions; tax exemption for certain mining property; provide for. (Rep. M. Huuki)
414	6012		Yes	12/20	12/20	12/20/12 #	Income tax; exemptions; tax exemption for certain mining entities; provide for. (Rep. M. Huuki)
415		1335	Yes	12/20	12/20	12/27/12 #	Labor; health and safety; "clear and convincing need" for new standard; clarify, and remove references to abolished commissions. (Sen. T. Schuitmaker)
416	5922		Yes	12/20	12/20	12/27/12 #	Labor; health and safety; general industry safety standards commission; eliminate. (Rep. J. Bumstead)
417	6060		Yes	12/20	12/20	12/20/12	Elections; recall; recall procedure; revise. (Rep. A. Forlini)
418	6063		Yes	12/20	12/20	12/20/12	Elections; recall; time to submit recall petition to the board of state canvassers or the board of county election commissioners; provide for. (Rep. H. Haugh)

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	HB	SB					
419	5590		Yes	12/20	12/21	12/21/12	Occupations ; security guards; use of certain military experience as the basis for licensure; authorize. (Rep. J. Graves)
420	4115		Yes	12/20	12/21	12/21/12	Townships ; employees and officers; administering oath of office; allow township supervisor to perform. (Rep. N. Jenkins)
421	4609		Yes	12/20	12/21	12/21/12	Transportation ; railroads; funding to maintain railroad grade crossings; increase. (Rep. W. Schmidt)
422	5055		Yes	12/20	12/21	12/21/12	Employment security ; administration; privilege for testimony in Michigan employment security commission proceedings; provide waiver under certain circumstances. (Rep. H. Hughes)
423	5196		Yes	12/20	12/21	12/21/12	Public employees and officers ; compensation and benefits; details of compensation package and severance payment agreements for employees; require posting. (Rep. T. McMillin)
424	5259		Yes	12/20	12/21	12/21/12	Vehicles ; mopeds; definition of mopeds; allow greater engine displacement and remove horsepower threshold. (Rep. R. LeBlanc)
425	5269		Yes	12/20	12/21	12/21/12	Occupations ; notaries public; crimes requiring revocation of notary's commission; revise. (Rep. H. Hughes)
426	5271		No	12/20	12/21	4/1/14 #	Occupations ; appraisers; appraisal management companies; establish license and application fees. (Rep. M. O'Brien)
427	5282		Yes	12/20	12/21	12/21/12	Weapons ; other; transportation of firearms for lawful purpose; expand. (Rep. B. Rendon)
428	5437		Yes	12/20	12/21	12/21/12	Gaming ; lottery; deductions from lottery prize money; require deduction for unemployment compensation debts. (Rep. D. Zorn)

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	HB	SB					
429	5445		Yes	12/20	12/21	12/21/12	Use tax; exemptions; definition of rolling stock used by an interstate fleet motor carrier; clarify. (Rep. J. Gilbert)
430	5831		Yes	12/20	12/21	12/21/12	State agencies (existing); technology, management, and budget; funding and approval of capital outlay project; clarify. (Rep. E. Kowall)
431	5839		Yes	12/20	12/21	12/21/12	Property tax; delinquent taxes; county treasurer's collection of a commission on delinquent property taxes; eliminate. (Rep. M. Knollenberg)
432	5881		Yes	12/20	12/21	12/21/12	Retirement; state employees; retired corrections officers to work as needed; allow under certain circumstances without losing retirement allowance. (Rep. J. Haveman)
433	5952		Yes	12/20	12/21	12/21/12	Communications; telecommunications; 9-1-1 surcharge on prepaid wireless communication devices; modify remittance process. (Rep. A. Nesbitt)
434	6029		Yes	12/20	12/21	12/21/12	Property; conveyances; conveyance of certain state-owned properties in Grand Traverse, Otsego, and Alger counties and interdepartmental transfer of certain state-owned property in Jackson county; provide for. (Rep. W. Schmidt)
435	6030		Yes	12/20	12/21	12/21/12	Property; conveyances; conveyance of certain state-owned properties in Ingham and Wayne counties; provide for. (Rep. J. Bauer)
436		0865	No	12/26	12/27	3/28/13	Local government; other; local financial stability and choice act; create. (Sen. P. Pavlov)
437		0770	No	12/22	12/27	3/28/13 #	State financing and management; bonds; school bond qualification, approval, and loan act; provide technical amendments. (Sen. J. Pappageorge)
438		0771	No	12/22	12/27	3/28/13 #	Education; financing; disposition of bond proceeds from school loan revolving fund bonds by state administrative board; provide for. (Sen. P. Pavlov)

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	HB	SB					
439		0772	No	12/22	12/27	3/28/13 #	State financing and management ; bonds; provision relating to purchase of qualified bonds of school district; modify. (<i>Sen. H. Walker</i>)
440		1281	Yes	12/22	12/27	12/27/12	Labor ; hours and wages; definition of payroll debit card; revise permitted issuers. (<i>Sen. D. Booher</i>)
441		1305	Yes	12/22	12/27	12/27/12	Insurance ; property and casualty; rating and underwriting requirements; modify. (<i>Sen. J. Hune</i>)
442		1283	Yes	12/22	12/27	12/27/12	Financial institutions ; mortgage brokers and lenders; mortgage loans to which mortgage brokers, lenders, and servicers licensing act apply; revise. (<i>Sen. M. Green</i>)
443		1284	Yes	12/22	12/27	12/27/12	Consumer credit ; lending practices; application of consumer mortgage protection act to certain mortgage transactions; modify. (<i>Sen. M. Nofs</i>)
444		1285	Yes	12/22	12/27	12/27/12	Consumer credit ; lending practices; mortgage loan subject to mortgage lending practices statute; modify. (<i>Sen. J. Marleau</i>)
445		1308	Yes	12/22	12/27	12/27/12	Insurance ; health; internal formal grievance procedure; modify. (<i>Sen. J. Marleau</i>)
446		1328	Yes	12/22	12/27	12/27/12	Environmental protection ; cleanups; procedures for cleanups and funding; modify. (<i>Sen. T. Casperson</i>)
447		1336	Yes	12/22	12/27	12/27/12 #	Labor ; health and safety; occupational health standards commission; eliminate and update with federal hazard communication standards. (<i>Sen. P. Colbeck</i>)
448	5917		Yes	12/20	12/27	12/27/12 #	Labor ; health and safety; construction safety commission; eliminate. (<i>Rep. J. Graves</i>)

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	HB	SB					
449	5836		Yes	12/20	12/27	12/31/12 #	Financial institutions; savings and loan associations; electronic funds transfer terminal statute; revise citations to savings and loan act. (Rep. N. Jenkins)
450	5837		Yes	12/20	12/27	12/31/12 #	Financial institutions; savings and loan associations; handling and processing food stamps statute; revise citations. (Rep. K. Cotter)
451	5838		Yes	12/20	12/27	12/31/12 #	Financial institutions; savings and loan associations; exemption of association shares from levy and sale; revise citation to savings and loan act. (Rep. M. Huuki)
452	5863		Yes	12/20	12/27	12/31/12 #	Financial institutions; savings and loan associations; motor vehicle sales finance statute; revise citation to savings and loan act. (Rep. R. Franz)
453	5890		Yes	12/20	12/27	12/27/12	Insurance; producers; fee assessed for reporting a change in mailing address; eliminate. (Rep. D. Shaughnessy)
454	5891		Yes	12/20	12/27	12/27/12	Insurance; property and casualty; requirement for written notice to policyholder and providing premium quotations to applicants; revise, and revise requirements relating to no-fault coordinated benefits deductibles and discounts. (Rep. P. Lund)
455	5843		No	12/22	12/27	3/31/13	Crimes; other; organized retail crime act; create. (Rep. J. Graves)
456	5902		Yes	12/22	12/27	3/31/13 #	Criminal procedure; sentencing guidelines; sentencing guidelines for organized retail crime act violations; enact. (Rep. J. Graves)
457	4725		Yes	12/22	12/27	12/27/12	Crime victims; rights; information concerning minors who have been victims of child abuse or sex crimes; exempt from disclosure under the crime victim's rights act. (Rep. T. McMillin)
458	4804		Yes	12/22	12/27	12/27/12	Sales tax; collections; prepayment collection process; revise. (Rep. R. Schmidt)

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2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
459	4838		Yes	12/22	12/27	12/27/12	State ; <i>interstate compacts and agreements</i> ; mutual aid agreements for certain emergencies; allow. (Rep. S. Tyler)
460	4856		Yes	12/22	12/27	12/27/12	Crimes ; <i>other</i> ; transporting medical marihuana in motor vehicle; allow under certain circumstances. (Rep. B. Giarson)
461	5047		Yes	12/22	12/27	12/27/12	Property tax ; <i>assessments</i> ; use of computerized database as tax roll; allow for county treasurers. (Rep. H. Haugh)
462	5156		Yes	12/22	12/27	12/27/12	Insurance ; <i>other</i> ; persons authorized to act as adjusters; modify. (Rep. J. Johnson)
463	5220		Yes	12/22	12/27	12/27/12	Property tax ; <i>tax tribunal</i> ; informal settlement conference; require if requested by petitioner. (Rep. M. Knollenberg)
464	5261		Yes	12/22	12/27	12/27/12	Retirement ; <i>public school employees</i> ; retirant employed to provide substitute teaching services by entity other than reporting unit; allow without forfeiture of retirement allowance or health care coverage if reporting unit pays 10% of compensation to retirement system. (Rep. H. Hughes)
465	5267		Yes	12/22	12/27	12/28/12 #	School aid ; <i>membership</i> ; special pupil membership count for qualifying dropout recovery program; provide for, and adjust certain other membership calculations and fund sources. (Rep. B. Genetski)
466	5301		Yes	12/22	12/27	12/27/12	Transportation ; <i>funds</i> ; conditions to receive funding from Michigan transportation fund; modify. (Rep. A. Price)
467	5444		Yes	12/22	12/27	12/27/12	Sales tax ; <i>exemptions</i> ; definition of rolling stock used by an interstate fleet motor carrier; clarify. (Rep. J. Gilbert)
468	5466		Yes	12/22	12/27	3/1/13	Construction ; <i>contracts</i> ; certain indemnification provisions; prohibit in construction-related service contracts with public agencies. (Rep. K. Heise)

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	HB	SB					
469	5852		No	12/22	12/27	3/28/13	Transportation; other ; motor fuel sold at a roadside retail location; regulate certain advertising requirements. (Rep. K. Daley)
470	5873		Yes	12/22	12/27	12/27/12	Higher education; financial aid ; administration of police officer's and fire fighter's survivor tuition act; transfer to department of treasury and revise application process. (Rep. A. Forlini)
471	5883		Yes	12/22	12/27	12/27/12	Natural resources; fishing ; netting of fish; allow department of natural resources to issue order. (Rep. J. Johnson)
472	5931		Yes	12/22	12/27	12/27/12	Human services; medical services ; distribution method for departmental bulletin; modify. (Rep. M. Lori)
473	5936		No	12/22	12/27	3/28/13	Traffic control; driver license ; driving skills test required to obtain a commercial driver license; allow waiver for certain military personnel and provide for the cancellation of certain licenses and retesting of certain applicants. (Rep. H. Hughes)
474	5937		Yes	12/22	12/27	1/1/06	Use tax; exemptions ; property affixed to property in another state; allow certain exemptions and allow exemption to the withdrawal of goods for inventory that will be used for installation in another state. (Rep. P. MacGregor)
475	5732		Yes	12/22	12/27	12/27/12	Michigan business tax; credits ; assignment of certain credits for rehabilitation of historic resource; allow. (Rep. J. Gilbert)
476		0931	Yes	12/22	12/27	12/27/12	Appropriations; zero budget ; multidepartment supplemental appropriations; provide for fiscal year 2011-2012. (Sen. R. Kahn)
477	5461		Yes	12/22	12/27	12/27/12	Criminal procedure; sentencing guidelines ; sentencing guidelines for crime of unemployment compensation fraud involving a knowing false misrepresentation of \$3,500.00 to \$25,000.00; enact. (Rep. D. Shaughnessy)
478	5523		Yes	12/27	12/28	12/28/12	Civil rights; privacy ; access information for social networking account of employees and students; prohibit employers and education institutions from requiring disclosure. (Rep. A. Nesbitt)

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	HB	SB					
479		0152	No	12/27	12/28	3/28/13	Criminal procedure ; evidence; electronic recording of certain custodial interrogation sessions; require under certain circumstances and revise procedures for determining admissibility as evidence. (Sen. T. Schuitmaker)
480		0873	No	12/27	12/28	3/28/13	Transportation ; carriers; indemnity clauses; prohibit in motor carrier transportation contracts. (Sen. J. Marleau)
481		0933	Yes	12/27	12/28	12/28/12	Worker's compensation ; benefits; medical marihuana expenses incurred to treat work-related injury; exclude from reimbursement requirements. (Sen. R. Jones)
482		0972	Yes	12/27	12/28	12/28/12	Property tax ; payment and collection; tax bills; require to include past due amounts owed. (Sen. D. Hildenbrand)
483		0978	Yes	12/26	12/28	12/28/12	Probate ; trusts; trust decanting; allow. (Sen. T. Schuitmaker)
484		0979	Yes	12/26	12/28	12/28/12	Probate ; trusts; personal property trust perpetuities act; modify to account for decanted trusts. (Sen. T. Schuitmaker)
485		0980	Yes	12/26	12/28	12/28/12	Probate ; trusts; powers of appointment; revise. (Sen. R. Jones)
486		0988	No	12/27	12/28	3/28/13	State ; buildings; pedestrian walkway between the Michigan state capitol and the Michigan hall of justice; designate as the "Frank J. Kelley Walkway". (Sen. S. Bieda)
487		0996	Yes	12/27	12/28	12/28/12	Agriculture ; animals; indemnity for livestock killed by wolves, coyotes, and cougars; authorize. (Sen. T. Casperson)
488		1031	Yes	12/27	12/28	12/28/12	Natural resources ; forests; municipal forest property; allow recreational activities to be conducted on property. (Sen. T. Casperson)

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	HB	SB					
489		1133	Yes	12/27	12/28	12/28/12	Property ; conveyances; sale of Ypsilanti state police post; provide for. (<i>Sen. R. Warren</i>)
490		1148	Yes	12/27	12/28	12/28/12	Economic development ; plant rehabilitation; exception for tax abatements for certain local governmental units; provide for. (<i>Sen. B. Caswell</i>)
491		1180	Yes	12/27	12/28	12/28/12	Vehicles ; registration plates; use of "Pure Michigan" brand on standard design registration plates; allow. (<i>Sen. G. Hansen</i>)
492		1189	Yes	12/27	12/28	12/28/12	Retirement ; pension oversight; equal treatment of elected members of a public employee retirement system governing board; establish. (<i>Sen. M. Jansen</i>)
493		1272	Yes	12/27	12/28	12/28/12	Employment security ; contribution rate; distribution of contributions; modify. (<i>Sen. M. Jansen</i>)
494	4134		Yes	12/27	12/28	12/28/12	Property tax ; exemptions; unoccupied new construction; exempt for certain period. (<i>Rep. M. O'Brien</i>)
495	4496		Yes	12/27	12/28	12/28/12	Higher education ; community colleges; granting of baccalaureate degrees in certain fields; allow. (<i>Rep. J. Walsh</i>)
496	4726		Yes	12/27	12/28	12/28/12	Employment security ; benefits; volunteer firefighters compensation; exclude from unemployment benefit calculation. (<i>Rep. A. Pscholka</i>)
497	4753		Yes	12/27	12/28	12/28/12	Property tax ; assessments; assessment cap on property if transferred to immediate family member and use does not change; retain. (<i>Rep. P. Pettalia</i>)
498	5668		No	12/28	12/28	3/28/13	Vehicles ; other; Michigan vehicle code; make general revisions. (<i>Rep. B. Jacobsen</i>)

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	HB	SB					
499	5711		No	12/28	12/28	3/31/13	Health ; <i>abortion</i> ; law regulating abortions; clarify, and include provisions relating to medical abortions, screening for coercion to abort, liability insurance requirements, regulation of clinics as freestanding surgical outpatient facilities, disposition of fetal remains, and penalties. (Rep. B. Rendon)
500	4862		Yes	12/27	12/28	12/28/12 #	Mental health ; <i>community mental health</i> ; merger of mental health and substance abuse services; provide for. (Rep. E. Poleski)
501	4863		Yes	12/22	12/28	1/1/13 #	Health ; <i>substance abuse treatment</i> ; local substance abuse treatment coordinating agencies; eliminate, and refer to substance abuse services provided by community mental health services programs. (Rep. E. Poleski)
502		1210	Yes	12/28	12/28	12/28/12	Economic development ; <i>brownfield redevelopment authority</i> ; community revitalization program and historic resources; include and provide other general amendments. (Sen. M. Kowall)
503	5835		Yes	12/20	12/28	12/28/12	Financial institutions ; <i>savings and loan associations</i> ; savings and loan act of 1980; repeal. (Rep. J. Farrington)
504	4561		No	12/27	12/28	3/28/13	Construction ; <i>code</i> ; Michigan residential code; beginning in 2015, update every 3 or 6 years. (Rep. J. Haveman)
505	4975		No	12/27	12/28	4/1/14 #	Occupations ; <i>appraisers</i> ; appraisal management companies; regulate. (Rep. M. O'Brien)
506	5302		Yes	12/27	12/28	12/28/12	Transportation ; <i>funds</i> ; local road agencies; require adoption of best practices and asset management standards as a condition of receiving funds. (Rep. R. Schmidt)
507	5313		Yes	12/27	12/28	12/28/12	Transportation ; <i>funds</i> ; conditions to receive funding from Michigan transportation fund; modify. (Rep. B. Jacobsen)
508	5315		No	12/27	12/28	3/28/13	Mental health ; <i>other</i> ; standards for fingerprinting, photographing, audiorecording, and using 1-way glass for recipients of mental health services; modify, and regulate video surveillance in psychiatric hospitals. (Rep. P. Somerville)

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	HB	SB					
509	5817		No	12/27	12/28	3/28/13	Sales tax ; collections; regulations on prepaid sales tax on gasoline; modify. (Rep. P. Opsommer)
510	5557		Yes	12/27	12/28	12/28/12	Economic development ; downtown development authorities; capture of certain taxes; modify. (Rep. M. O'Brien)
511	5673		Yes	12/27	12/28	1/2/13 #	Water ; quality; strategic water quality initiatives fund; modify grant and loan programs. (Rep. A. Pscholka)
512	4851		Yes	12/27	12/28	4/1/13	Health ; medical marihuana; definition of "bona fide physician-patient relationship", "enclosed, locked facility", and "primary caregiver"; clarify and condition privilege from arrest on presentation of I.D. (Rep. P. Cavanagh)
513	4853		Yes	12/27	12/28	4/1/13	Criminal procedure ; sentencing guidelines; sentencing guidelines for crime of selling or providing medical marihuana to unprescribed user; implement. (Rep. E. McBroom)
514	4834		Yes	12/27	12/28	4/1/13	Health ; medical marihuana; registry identification cards; modify requirements for issuing, and provide for contracting, reviewing additional debilitating medical conditions, and depositing and expending fees. (Rep. G. Haines)
515	5801		Yes	12/27	12/28	12/28/12	State ; interstate compacts and agreements; state and province emergency management assistance agreement; establish. (Rep. R. Franz)
516		0969	Yes	12/28	12/28	12/28/12 #	School aid ; membership; seat time exception for qualifying dropout recovery program; provide for and revise seat time waiver provisions for online programs. (Sen. J. Proos)
517		1024	Yes	12/28	12/28	4/1/13	State financing and management ; purchasing; Iran economic sanctions act; enact. (Sen. R. Kahn)
518	5367		Yes	12/27	12/28	12/28/12	Appropriations ; zero budget; multidepartment supplemental appropriations; provide for fiscal year 2012-2013. (Rep. C. Moss)

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	HB	SB					
519	5830		Yes	12/27	12/28	12/28/12	State financing and management; <i>authorities</i> ; state building authority; modify to comply with capital outlay reforms. (Rep. E. Kowall)
520		1350	Yes	12/28	12/28	12/28/12	Natural resources; <i>hunting</i> ; gray wolf; include in game list and authorize hunting season. (Sen. T. Casperson)
521		1172	Yes	12/28	12/28	12/28/12	Civil procedure; <i>foreclosure</i> ; mortgage modification negotiation procedures; extend sunset provision. (Sen. D. Booher)
522		0265	Yes	12/28	12/28	12/28/12	Traffic control; <i>violations</i> ; weight restriction during frost restriction periods; provide exemption for trucks transporting heating fuel under certain circumstances. (Sen. T. Casperson)
523		0810	No	12/28	12/28	3/28/13	Elections; <i>other</i> ; village elections to be held in November; require, and general amendments to the Michigan election law. (Sen. G. Hansen)
524	4446		Yes	12/27	12/28	12/28/12	Property tax; <i>principal residence exemption</i> ; filing deadline and proration exemption; provide for. (Rep. M. O'Brien)
525	5404		Yes	12/27	12/28	12/28/12	Land use; <i>land division</i> ; landlocked cemeteries; explicitly prohibit in land division and platting processes. (Rep. D. Zorn)
526	5422		Yes	12/27	12/28	12/28/12	Corrections; <i>employees</i> ; new employee training for corrections officers; allow to be provided by certain colleges under certain circumstances. (Rep. J. Haveman)
527	5600		Yes	12/27	12/28	12/28/12	Juveniles; <i>criminal procedure</i> ; set-aside convictions for juvenile adjudications; clarify eligibility. (Rep. J. Haveman)
528	5459		Yes	12/27	12/28	12/28/12	Civil rights; <i>open meetings</i> ; requirement for 18-hour notice for special meetings; clarify definition of accessible posting. (Rep. P. Opsommer)

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	HB	SB					
529	5487		No	12/27	12/28	3/28/13	Law enforcement; other; certification requirements for certain agents of county road commission; clarify, and clarify their authority to issue certain citations. <i>(Rep. P. Potvin)</i>
530	5805		Yes	12/27	12/28	1/1/13	Insurance; health; health care sharing ministries freedom to share act; enact to recognize ministries and provide they are not engaging in the business of insurance. <i>(Rep. L. Lyons)</i>
531	5692		No	12/27	1/2	4/3/13 #	Crimes; arson; certain arson violations; revise elements of crimes and provide for increased penalties. <i>(Rep. J. Walsh)</i>
532	5693		No	12/27	1/2	4/3/13 #	Crimes; arson; certain arson violations; revise elements of crimes and provide for increased penalties. <i>(Rep. K. Cotter)</i>
533	5694		No	1/2	1/2	4/3/13 #	Crimes; arson; certain arson violations; revise elements of crimes and provide for increased penalties. <i>(Rep. J. Graves)</i>
534	5695		No	12/27	1/2	4/3/13 #	Criminal procedure; sentencing guidelines; sentencing guidelines for certain arson violations; enact. <i>(Rep. S. Erwin Oakes)</i>
535		021	Yes	1/2	1/2	1/2/13 #	State financing and management; other; performance metrics; require of state departments. <i>(Sen. T. Schuitmaker)</i>
536		0802	Yes	1/2	1/2	1/2/13 #	State financing and management; budget; state departments' transparency; require itemized financial plan and posting on website. <i>(Sen. P. Colbeck)</i>
537		056	No	1/2	1/2	3/28/13	Highways; name; renaming a portion of M-21; designate as "Mark V. Ingram II Freeway". <i>(Sen. J. Gleason)</i>
538		0231	Yes	1/2	1/2	4/1/13	Crimes; other; discovery of a dead body; require to notify law enforcement under certain circumstances. <i>(Sen. T. Schuitmaker)</i>

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	HB	SB					
539		0380	Yes	1/2	1/2	4/1/13 #	Criminal procedure ; sentencing guidelines; sentencing guidelines for crime of failure to report a dead body with purpose of concealing fact of or cause of death; provide for. (Sen. D. Hildenbrand)
540	4555		No	12/27	1/2	3/28/13 #	Juveniles ; criminal procedure; juvenile competency and culpability; clarify. (Rep. E. Lipton)
541		0246	No	1/2	1/2	3/28/13 #	Juveniles ; criminal procedure; juvenile competency standards; revise. (Sen. T. Schuitmaker)
542		0321	Yes	1/2	1/2	1/2/13	Insurance ; no-fault; medical marihuana coverage in insurance policies; exempt required coverage for. (Sen. R. Jones)
543		0353	No	1/2	1/2	3/31/13	Traffic control ; violations; any intoxicating substance; include in definition of "operating while intoxicated". (Sen. D. Robertson)
544		0467	Yes	1/2	1/2	6/1/13	Insurance ; annuities; regulation of annuity sales; provide for. (Sen. R. Jones)
545		0539	Yes	1/2	1/2	1/2/13	Probate ; guardians and conservators; appointment in this state of guardians and conservators appointed in other jurisdictions; allow. (Sen. T. Schuitmaker)
546		0577	Yes	1/2	1/2	1/2/13	Occupations ; athletics; unarmed combat regulatory act; provide for confidentiality of information and make other general revisions. (Sen. J. Hune)
547		0630	No	1/2	1/2	4/1/13	Criminal procedure ; probation; retention and release of nonpublic records of an arrest, diversion, discharge, or dismissal of certain controlled substance cases; clarify. (Sen. R. Jones)
548		0631	No	1/2	1/2	4/1/13	Criminal procedure ; probation; procedures for retention and use of nonpublic record of deferral for crime of taking or retaining child; revise, and limit number of deferral opportunities. (Sen. T. Schuitmaker)

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	HB	SB					
549		0632	No	1/2	1/2	4/1/13	Criminal procedure; probation; procedures for retention and use of nonpublic record of deferral for a controlled substance violation; revise. (<i>Sen. S. Bieda</i>)
550		0633	No	1/2	1/2	4/1/13	Criminal procedure; probation; retention of nonpublic records during period of diversion for certain crimes; clarify. (<i>Sen. V. Smith</i>)
551		0811	No	1/2	1/2	3/28/13 #	Villages; general law; references to September primary election; remove. (<i>Sen. G. Hansen</i>)
552		0859	Yes	1/2	1/2	1/2/13	Insurance; other; sale of portable electronics insurance; exempt from requirements for licensing of producers. (<i>Sen. D. Hildenbrand</i>)
553		0895	Yes	1/2	1/2	1/2/13	Civil procedure; execution; educational trusts and accounts; provide exemption from execution, garnishment, and attachment. (<i>Sen. M. Green</i>)
554		0939	Yes	1/2	1/2	1/2/13	Environmental protection; permits; clean corporate citizen program; establish in statute and provide incentives. (<i>Sen. A. Meekhof</i>)
555		0940	Yes	1/2	1/2	1/2/13 #	State financing and management; purchasing; priority consideration; grant to companies in environmental leaders program. (<i>Sen. J. Proos</i>)
556		0941	Yes	1/2	1/2	1/2/13 #	Environmental protection; solid waste; public health code; make parts concerning medical waste and radiation control subject to environmental leaders program. (<i>Sen. T. Casperson</i>)
557		0942	Yes	1/2	1/2	1/2/13 #	Environmental protection; other; safe drinking water act; make subject to environmental leaders program. (<i>Sen. M. Green</i>)
558		1043	No	1/2	1/2	3/28/13	Civil procedure; service of process; process server fees; revise, and allow fees for certain additional services. (<i>Sen. M. Nofs</i>)

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	HB	SB					
559		1155	Yes	1/2	1/2	1/2/13 #	Water; quality; wetland mitigation bank funding program; authorize with funding from the strategic water quality initiatives fund. (<i>Sen. M. Kowall</i>)
560		1156	Yes	1/2	1/2	1/2/13 #	Water; quality; state water pollution control revolving fund; modify definition of disadvantaged community to be eligible for clean water assistance. (<i>Sen. J. Proos</i>)
561		1157	Yes	1/2	1/2	1/2/13 #	Water; quality; safe drinking water revolving fund; revise designation of disadvantaged community and modify points awarded for funding priorities. (<i>Sen. P. Pavlov</i>)
562		1158	Yes	1/2	1/2	1/2/13 #	Water; quality; transfer of money from the Great Lakes water quality bond fund; modify distributions. (<i>Sen. D. Hildenbrand</i>)
563		1206	Yes	1/2	1/2	1/2/13	Environmental protection; solid waste; bulk biosolids of exceptional quality used for landscaping; exempt from certain rules concerning cumulative loading, management practices, and reporting. (<i>Sen. T. Casperson</i>)
564		1211	No	1/2	1/2	3/28/13	Crime victims; rights; victim notification of paroled prisoner escape, commutation, death, or parole board hearing; require, and allow victim to address parole board under certain circumstances. (<i>Sen. M. Green</i>)
565		1232	Yes	1/2	1/2	1/2/13	Children; adoption; Michigan Indian family preservation act (MIFPA); create. (<i>Sen. J. Emmons</i>)
566		1317	Yes	1/2	1/2	1/2/13 #	Businesses; professional corporations; citation to professional service corporation act in occupational code; revise. (<i>Sen. M. Kowall</i>)
567		1318	Yes	1/2	1/2	1/2/13 #	Businesses; professional corporations; citation to professional service corporation act in assumed name statute; revise. (<i>Sen. T. Schuitmaker</i>)
568		1319	Yes	1/2	1/2	1/2/13 #	Businesses; professional corporations; citation to professional service corporation act in limited liability company act; revise. (<i>Sen. R. Jones</i>)

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PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
569		1320	Yes	1/2	1/2	1/2/13	Businesses; professional corporations; regulation of professional corporations; recodify in business corporation act and make general revisions. (<i>Sen. M. Kowall</i>)
570		1322	Yes	1/2	1/2	1/2/13	Transportation; other; amendment of motor bus transportation act to reflect transfer of duties regarding self-insurers from the secretary of state to the insurance commissioner; provide for. (<i>Sen. J. Hune</i>)
571		1323	Yes	1/2	1/2	1/2/13	Insurance; no-fault; act allowing municipal self-insurance pools; amend to reflect transfer of duties regarding self-insurers from the secretary of state to the insurance commissioner. (<i>Sen. J. Hune</i>)
572		1324	Yes	1/2	1/2	1/2/13	Insurance; no-fault; motor vehicle claims act; amend to reflect transfer of duties regarding self-insurers from the secretary of state to the insurance commissioner. (<i>Sen. J. Hune</i>)
573		1337	No	1/2	1/2	3/28/13	Sales tax; exemptions; exemptions for fund-raising by nonprofits and charities; clarify. (<i>Sen. M. Jansen</i>)
574		1261	Yes	1/2	1/2	1/2/13 #	Natural resources; other; Michigan civilian conservation corps; modify program and authorize another entity to establish and operate a Michigan civilian conservation corps. (<i>Sen. G. Hansen</i>)
575		1262	Yes	1/2	1/2	1/2/13 #	Natural resources; other; Michigan civilian conservation corps act; modify program and authorize another entity to establish and operate a Michigan civilian conservation corps. (<i>Sen. T. Casperson</i>)
576		1263	Yes	1/2	1/2	1/2/13 #	Natural resources; other; Michigan civilian conservation corps; modify, and authorize another entity to establish and operate a Michigan civilian conservation corps. (<i>Sen. P. Pavlov</i>)
577		1264	Yes	1/2	1/2	1/2/13 #	Natural resources; other; Michigan civilian conservation corps; modify program and authorize another entity to establish and operate a Michigan civilian conservation corps. (<i>Sen. R. Warren</i>)
578		1265	Yes	1/2	1/2	1/2/13 #	Natural resources; other; Michigan civilian conservation corps; modify, and authorize another entity to establish and operate a Michigan civilian conservation corps. (<i>Sen. M. Green</i>)

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*** - See Act for applicable effective date.

+ - Line item veto.

++ - Pocket veto.

- Tie bar.

2012 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
579		1267	Yes	1/2	1/2	1/2/13	Employment security ; benefits; sunset for shared-work plan; remove. (<i>Sen. B. Caswell</i>)
580		1291	Yes	1/2	1/2	1/2/13	Occupations ; alarm systems; registration of alarm system services providers; provide for. (<i>Sen. D. Hildenbrand</i>)
581		1292	Yes	1/2	1/2	1/2/13 #	Occupations ; alarm systems; registered alarm system providers; exclude from private security business and security alarm act. (<i>Sen. D. Hildenbrand</i>)
582		1296	Yes	1/2	1/2	1/2/13	Civil procedure ; statute of limitations; statute of repose for actions against an attorney-at-law or a law firm; enact. (<i>Sen. T. Schuitmaker</i>)
583		1313	Yes	1/2	1/2	3/1/13	Crimes ; crimes against minors; copying or reproducing child sexually abusive material; prohibit, and restrict access to and reproduction of evidence of the violation. (<i>Sen. G. Hansen</i>)
584	5892		Yes	12/27	1/3	1/3/13	Consumer protection ; consumer leases; fee to reinstate after missing a payment; limit and clarify reinstatement rights. (<i>Rep. W. Schmidt</i>)
585		0264	No	12/27	1/3	3/28/13	Use tax ; collections; prepayment collection process; revise. (<i>Sen. D. Hildenbrand</i>)
586	4121		Yes	1/7	1/7	1/7/13 #	Elections ; other; metropolitan district elections; provide for under the Michigan election law. (<i>Rep. R. Hammel</i>)
587	4122		Yes	1/7	1/7	1/7/13 #	Elections ; other; metropolitan district elections; revise. (<i>Rep. R. Hammel</i>)
588		1091	Yes	1/7	1/7	1/7/13	Mobile homes ; title; duplicate title for mobile home; require certification and information to verify the identity of individual submitting electronic request. (<i>Sen. M. Kowall</i>)

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	HB	SB					
589		1121	No	1/7	1/7	3/28/13	Vehicles ; <i>agricultural equipment</i> ; definition of implement of husbandry; revise, and eliminate prohibition on carrying a passenger on a moped. (Sen. B. Caswell)
590		1240	Yes	1/7	1/7	1/7/13	Torts ; <i>liability</i> ; social services agency; grant immunity for providing child social welfare programs. (Sen. D. Hildenbrand)
591		1321	No	1/7	1/7	3/28/13	Occupations ; <i>security guards</i> ; reporting certain crimes to law enforcement; require. (Sen. R. Jones)
592		0756	No	1/8	1/8	3/28/13	Traffic control ; <i>driver license</i> ; individuals with level 2 graduated driver license using cell phone while operating a vehicle; prohibit. (Sen. H. Walker)
593		1112	Yes	1/8	1/9	1/9/13 #	Children ; <i>protection</i> ; task force on the prevention of sexual abuse of children; create. (Sen. J. Proos)
594		1113	Yes	1/8	1/9	1/9/13 #	Education ; <i>school districts</i> ; school district policy regarding child sex abuse and suggested instruction and training in child sex abuse prevention; provide for. (Sen. R. Warren)
595		1114	Yes	1/8	1/9	1/9/13 #	Education ; <i>curricula</i> ; opt-out from instruction regarding child sexual abuse and opportunity for parental preview; provide for. (Sen. J. Emmons)
596		0192	No	1/8	1/9	3/28/13	Probate ; <i>wills and estates</i> ; estate administration fee; allow deduction for amount of mortgage on real property. (Sen. B. Caswell)
597		0409	Yes	1/8	1/9	1/9/13	Income tax ; <i>deductions</i> ; certain pension income; modify. (Sen. G. Hansen)
598		0645	No	1/8	1/9	3/28/13	Corrections ; <i>prisoners</i> ; prisoners receiving or possessing certain items; prohibit. (Sen. R. Kahn)

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2012 Michigan Public Acts Table

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	HB	SB					
599		0878	No	1/8	1/9	3/28/13	Corrections; other; use of a certain youth correctional facility to house certain adult inmates; provide for, and allow department of corrections to contract with certain other vendors for placement of prisoners. (Sen. J. Proos)
600		1000	Yes	1/8	1/9	1/9/13	Family law; parenting time; parenting time in a country not a party to the Hague convention on the civil aspects of international child abduction; prohibit. (Sen. J. Moolenaar)
601		1006	Yes	1/8	1/9	1/1/08	Michigan business tax; gross receipts; treatment of certain payments to subcontractors as purchases from other firms; clarify. (Sen. M. Jansen)
602		1008	Yes	1/8	1/9	1/9/13	Water; other; aquifer protection and dispute resolution program; establish. (Sen. J. Moolenaar)
603		1021	Yes	1/8	1/9	1/9/13	Property tax; other; payment in lieu of taxes on certain state-owned land; increase, and prohibit prorated payments. (Sen. T. Casperson)
604		1022	Yes	1/8	1/9	1/9/13	Property tax; other; payment in lieu of taxes on certain state-owned land; revise. (Sen. D. Booher)
605		1037	Yes	1/8	1/9	1/1/08	Michigan business tax; administration; gross receipts, tax base, apportionment, and historic rehabilitation credit; modify to reflect original intent. (Sen. J. Brandenburg)
606		1051	Yes	1/8	1/9	1/9/13	Education; board members; board members to abstain from voting on financial issues or contracts when a conflict of interest exists; require, and require certain other disclosures of conflicts. (Sen. J. Hune)
607		1386	Yes	1/8	1/9	1/9/13	Human services; services or financial assistance; assistance program; clarify the family independence program assistance eligibility requirements. (Sen. B. Caswell)
608		1115	No	1/8	1/9	3/28/13	Torts; medical malpractice; procedures for entry of damage awards; modify and clarify. (Sen. R. Kahn)

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2012 Michigan Public Acts Table

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	HB	SB					
609		1118	No	1/8	1/9	3/28/13	Torts; medical malpractice; statute of limitations; revise period of limitations for survival actions and disallow prejudgment interest on attorney fees and costs. (Sen. J. Hune)
610		1126	No	1/8	1/9	3/28/13 #	Corrections; prisoners; electronic monitoring of certain participants in work or school release programs; require. (Sen. R. Jones)
611		1357	Yes	1/8	1/9	3/1/13 #	Criminal procedure; sentencing guidelines; sentencing guidelines for crime of tampering with or removing electronic monitoring device; enact. (Sen. R. Jones)
612		1127	Yes	1/8	1/9	3/1/13 #	Corrections; other; verification of school enrollment or employment of individual placed on school or work release while on probation; require, and prohibit removing, destroying, or tampering with electronic monitoring device. (Sen. R. Jones)
613		1307	Yes	1/8	1/9	3/1/13	Criminal procedure; sentencing; verification of school enrollment or employment of individual released from jail to attend school or for employment purposes; amend day parole act to require and provide for conditions of release. (Sen. R. Jones)
614		1132	Yes	1/8	1/9	1/9/13	Children; adoption; petition for adoption; allow a married spouse to adopt an adult individually under certain circumstances. (Sen. J. Pappageorge)
615		1135	No	1/8	1/9	3/28/13	Human services; services or financial assistance; program to provide energy assistance for low-income households; create. (Sen. B. Caswell)
616		1141	Yes	1/8	1/9	1/9/13 #	Criminal procedure; probation; probation swift and sure sanctions act; create, and provide for program eligibility and program funding. (Sen. J. Proos)
617		1179	Yes	1/8	1/9	1/9/13 #	Courts; court of appeals; certain fees collected by the state court of appeals; allow to be used to implement the probation swift and sure sanctions act. (Sen. J. Proos)
618		1145	Yes	1/8	1/9	1/9/13 #	Occupations; physician's assistants; prescription of drugs by physician's assistant, practicing under the supervision of a licensed physician; clarify. (Sen. J. Marleau)

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	HB	SB					
619		1238	Yes	1/8	1/9	1/9/13	Natural resources; funding; Michigan natural resources trust fund; modify procedures for selection of land acquisition and development projects. (<i>Sen. D. Booher</i>)
620		1239	No	1/8	1/9	3/28/13	Education; financing; strict discipline academy access to long-term borrowing abilities; provide for. (<i>Sen. D. Hildenbrand</i>)
621		1243	Yes	1/8	1/9	1/9/13	Economic development; other; appropriation of money from the transportation economic development fund to state trunk line fund; extend to 2013. (<i>Sen. J. Pappageorge</i>)
622		1280	Yes	1/8	1/9	1/9/13	Natural resources; land acquisition; land exchange facilitation funds; increase maximum balance and allow sale of state land, otherwise needed to meet department objective, for forestry or mineral industry use. (<i>Sen. T. Casperson</i>)
623		1315	Yes	1/8	1/9	1/9/13	Criminal procedure; warrants; warrantless search of parolees; provide for under certain circumstances. (<i>Sen. J. Proos</i>)
624		1351	Yes	1/8	1/9	1/9/13	Courts; reorganization; court of appeals and certain district court districts; reorganize. (<i>Sen. J. Pappageorge</i>)
625	5727		No	1/8	1/9	3/28/13	State financing and management; purchasing; energy-based performance contracting for governmental energy use; require. (<i>Rep. J. Haveman</i>)
Veto	4116		Yes	No	12/21	6/28/12	State; interstate compacts and agreements; review by attorney general; require. (<i>Rep. P. Opsommer</i>)
Veto	4263		Yes	No	3/16	++	Housing; landlord and tenants; lawful reentry by landlord upon death of tenant; modify conditions for. (<i>Rep. M. O'Brien</i>)
Veto	5061		Yes	No	7/3	7/3/12	Elections; absent voters; photograph identification; require when obtaining an absentee ballot, require certain reporting by local clerks concerning registration affidavits, and require secretary of state to develop information displays indicating that ballot coaching in residential care facilities is prohibited. (<i>Rep. B. Jacobsen</i>)

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PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
Veto	5415		Yes	No	7/2	12/28/12	Recreation; local parks; Father Marquette national memorial and Mackinac straits area museum advisory board; establish. (Rep. F. Foster)
Veto	5546		Yes	No	6/19	++	Gaming; horse racing; miscellaneous changes to the horse racing law of 1995; enact. (Rep. K. Daley)
Veto		059	No	No	1/2	12/18/12	Weapons; licensing; concealed weapons licensing boards; eliminate, and transfer powers to secretary of state. (Sen. M. Green)
Veto		0703	Yes	No	4/20	12/28/12 #	Animals; other; importation requirements for large carnivore; implement. (Sen. J. Hune)
Veto		0754	Yes	No	7/3	7/3/12	Elections; registration; photograph identification for in-person voter registration applicants; require, and provide registration and training of third-party voter registration organizations. (Sen. M. Jansen)
Veto		0803	Yes	No	6/29	7/3/12	Elections; voters; declaration of United States citizenship when voting or applying for an absent voter ballot; require. (Sen. D. Booher)
Veto		1236	Yes	No	12/28	12/28/12	Animals; other; reference to certain contact with large carnivore over 20 weeks of age; modify and make other general revisions. (Sen. T. Casperson)
Veto		1293	Yes	No	12/19	12/28/12 #	Insurance; health; regulations applicable to nonprofit mutual disability insurer; revise to accommodate merger with nonprofit health care corporation. (Sen. J. Hune)
Veto		1294	Yes	No	12/19	++ #	Insurance; health care corporations; merger of corporation with a nonprofit mutual disability insurer; allow, and provide procedures. (Sen. J. Hune)

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